By Mr. MCCAIN (for himself, Mr. BRYAN, and Mr. ROTH):

S. 1506. A bill to amend the Professional Boxing Safety Act (P.L. 104-272); considered and passed.

By Mr. THURMOND:

S. 1507. A bill to amend the National Defense Authorization Act for Fiscal Year 1998 to amake certain technical corrections; considered and passed.

By Mr. LOTT (for himself, Mr. DASCHLE, and Mr. WARNER):

S. 1508. A bill to authorize the Architect of the Capitol to construct a Capitol Visitor Center under the direction of the United States Preservation Commission, and for other purposes; to the Committee on Rules and Administration.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 1509. A bill to authorize the Bureau of Land Management to use vegetion sales contracts in managing land at Fort Stanton and certain nearby acquired land along the Rio Bonita in Lincoln County, New Mexico; to the Committee on Energy and Natural Resources.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 1510. A bill to direct the Secretary of the Interior and the Secretary of Agriculture to convey certain lands to the county of Rio Arriba, New Mexico; to the Committee on Energy and Natural Resources.

By Mr. THURMOND:

S. 1511. A bill to amend section 3165 of the National Defense Authorization Act for Fiscal Year 1998 to clarify the authority in the section; considered and passed.

By Mr. LAUTENBERG (for himself, Mr. D'AMATO, Mr. MOYNIHAN, and Mr. TORRICELLI):

S. 1512. A bill to amend section 659 of title 18, United States Code; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. SNOWE:

S. Res. 150. A resolution to express the sense of the Senate that if a new $1 coin is minted, the Secretary of the Treasury should be authorized to mint and circulate $1 coins bearing a likeness of Margaret Chase Smith; to the Committee on Labor and Human Resources.

By Mr. WARNER (for himself and Mr. FORD):

S. Res. 151. A resolution to amend the Standing Rules, of the Senate to require the Committee on Rules and Administration to develop, implement, update as necessary a strategic planning process for the functional and technical infrastructure support of the Senate; considered and agreed to.

By Mr. LOTT (for himself and Mr. DASCHLE):

S. Res. 152. A resolution to direct the Senate Legal Counsel to appear as amicus curiae in the name of the Senate in City of New York, et al. v. William Clinton, et al., and related cases; considered and agreed to.

S. Res. 153. A resolution to authorize production of Senate documents and representation by Senate Legal Counsel in the of Sherry Yvonne Moore v. Capitol Guide Board; considered and agreed to.

S. Res. 154. A resolution to authorize representation by Senate Legal Counsel; considered and agreed to.

By Mrs. HUTCHISON (for herself, Mrs. MURRAY, Ms. SNOWE, Mrs. FEINSTEIN, Mrs. BOXER, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, and Ms. COLLINS):

S. Con. Res. 67. A concurrent resolution expressing the sense of Congress that the museum entitled ''The Women's Museum: An Institute for the Future'' in Dallas, Texas, be designated as millennium project for the United States; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. TORRICELLI:

S. 1493. A bill to amend section 485(f)(1)(F) of the Higher Education Act of 1965 to provide for the disclosure of all criminal incidents that manifest evidence of prejudice based on race, gender, religion, sexual orientation, ethnicity, or disability; to the Committee on Labor and Human Resources.

THE CAMPUS HATE CRIMES RIGHT TO KNOW ACT

Mr. TORRICELLI. Mr. President, every year, over 14 million students and their parents agonize over where to attend college. They spend months researching schools and visiting campuses in an effort to find the perfect fit. At the top of the list of characteristics students and their parents look for in a school is a safe learning environment. Information is the key to choosing such an environment. Under current law, students and their parents do not have access to all the information necessary to make an informed choice.

Current law requires colleges and universities to report statistics on crimes that occur on their campuses. However, colleges are only required to report those hate crimes that result in murder, rape, or aggravated assault. These three categories of crimes only represent 16 percent of the total number of hate crimes that occur on college campuses every year. Vandalism, harassment, and simple assault comprise the vast majority of hate crimes. Under current law, however, colleges are not required to report these crimes.

Current law also does not require colleges and universities to report hate crimes against women and the disabled. Thus, parents of daughters or disabled students have no idea whether the college to which they will send their children is safe.

Students and parents have the right to information about all hate crimes committed on their prospective college campuses. My bill, the Campus Hate Crimes Right to Know Act of 1997, will ensure that they have access to that information.

The Campus Hate Crimes Right to Know Act does two very important things: it expands college reporting requirements to include all hate crimes, not just those that result in murder, rape and aggravated assault; and, it includes gender and disability in the class protected by the reporting requirement. Under current law, colleges need only report hate crimes motivated by race, religion, sexual orientation, and ethnicity. My bill will cover these four categories plus gender and disability.

Our Nation's college campuses should be a refuge from crime, particularly heinous attacks motivated by hatred and bigotry. The disturbing truth, however, is that college campuses are often fertile ground for bigotry. A recent study done by the Maryland Prejudice Institute reported that 25 percent of minority college students attending predominantly white colleges have been victimized by hate. In 1996, 90 incidents of anti-Semitic activity on college campuses were reported to the Anti-Defamation League.

In September 1996, 60 Asian-American college students at a California university received threats from another student via e-mail messages threatening that all Asian-Americans would be hunted and killed. Under current law, this offense would not appear on a campus crime report.

The Campus Hate Crimes Right to Know Act will provide students and their parents with vital information so that they may better protect themselves against such crimes. It will also encourage college officials to raise awareness about these crimes and develop programs and strategies to combat them.

The damage done by hate crimes goes beyond physical injury. Hate crimes, whether they take the form of painting a swastika on someone's dorm room door or gang beating a student believed to be gay, leave the victim feeling fearful, vulnerable, and isolated.

Our children are our future. Their college years are among the most exciting and formative of their lives. By introducing the Campus Hate Crimes Right to Know Act of 1997, I hope to empower students and parents with all of the information necessary to ensure that those years are as safe as possible.

Mr. President, I ask unanimous consent at this time that the text of the Campus Hate Crimes Right to Know Act of 1997, in its entirety, be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1493

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DISCLOSURE.

(a) SHORT TITLE.—This section may be cited as the ''Campus Hate Crimes Right to Know Act of 1997''.

(b) FINDINGS.—Congress finds that—

(1) the incidence of violence on college campuses based on race, gender, religion, sexual orientation, ethnicity, or disability poses a serious national problem;

(2) such violence disrupts the tranquility and safety of campuses and is deeply divisive;

(3) hate crimes include crimes in which the perpetrator intentionally selects a victim because of the actual or perceived race, gender, religion, sexual orientation, ethnicity, or disability of the victim;

(4) existing Federal reporting requirements only require colleges and universities to report hate crimes that result in murder, rape, or aggravated assault;

(5) existing reporting requirements are inadequate to deal with the problem of hate

crimes since the vast majority of hate crimes that occur on college campuses do not result in murder, rape, or aggravated assault;

(6) existing reporting requirements are inadequate because the requirements do not require colleges and universities to report hate crimes that target victims because of the victims' gender or disability;

(7) omitting certain hate crimes from official campus crime reports may result in a false sense of security among students and apathy from campus officials;

(8) omitting certain hate crimes from official campus crime reports deprives students and parents of the students of vital information necessary to protect the students against such crimes and to make informed decisions in choosing a college or university;

(9) requiring postsecondary institutions to report all hate crimes that occur on their campuses will provide students and parents of the students with vital information so that the students may better protect themselves against such crimes; and

(10) requiring postsecondary institutions to report all hate crimes that occur on their campuses will encourage college officials to raise awareness about such crimes and develop programs and strategies to combat such crimes.

(c) AMENDMENT.—Section 485(f)(1)(F) of the Higher Education Act of 1965 (20 U.S.C. 1092(f)(1)(F) is amended—

(1) by redesignation clauses (i) through (vi) as subclauses (I) through (VI), respectively;

(2) by striking ''Statistics'' and inserting ''(i) Statistics''; and

(3) by adding at the end the following:

''(ii) Statistics concerning the occurrence on campus, during the most recent calendar year, and during the 2 preceding calendar years for which data are available, of all criminal incidents that manifest evidence of prejudice based on actual or perceived race, gender, religion, sexual orientation, ethnicity, or disability that are reported to campus security authorities or local police agencies. The statistics shall be collected and reported according to category of prejudice.''.

By Mr. LEVIN (by request):

S. 1495. A bill to amend section 7703 of title 5, United States Code, to strengthen the ability of the Office of Personnel Management to obtain judicial review to protect the merit system, and for other purposes; to the Committee on Governmental Affairs.

THE MERIT SYSTEM PROTECTION ACT OF 1997

Mr. LEVIN. Mr. President, as the ranking member of the International Security, Proliferation, and Federal Services Subcommittee of the Governmental Affairs Committee, the subcommittee having jurisdiction over civil service issues, I am introducing today, at the request of the administration, legislation that would make two changes to the Civil Service Reform Act of 1978. I introduce this legislation as a courtesy to the administration without taking a position on its merits so that it can be given proper consideration and so that concerned parties can have the opportunity to comment on its potential effects.

The two changes to the Civil Service Reform Act relate to the authority of the Office of Personnel Management [OPM] to seek judicial review of Federal personnel management decisions issued by the Merit Systems Protection Board [MSPB] and by arbitrators. The first change would allow OPM 60 days, rather than the 30 days under current law, to file a petition for review of an MSPB final decision with the U.S. Court of Appeals for the Federal Circuit. The time available for employees to appeal would not be affected by this change.

The second change would eliminate the discretion of the Federal circuit to decide whether to hear OPM petitions for review. Currently, OPM must file a petition with the Federal circuit and ask the court to hear its appeal. If enacted, this change would require the Federal circuit to hear every appeal from a final MSPB decision brought by OPM.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1495

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MERIT SYSTEM JUDICIAL REVIEW.

Section 7703 of title 5, United States Code, is amended—

(1) in subsection (b)(1) by striking ''provision of law,'' and inserting ''provision of law except subsection (d),''; and

(2) in subsection (d)—

(A) in the first sentence, by inserting after ''filing'' the following: '', within 60 days after the date the Director received notice of the final order or decision of the board,''; and

(B) by striking the last sentence.

SEC. 2. EFFECTIVE DATE.

The amendments made by section 1 shall take effect on the date of enactment of this Act, and apply to any suit, action, or other administrative or judicial proceeding pending on such date or commenced on or after such date.

SECTION-BY-SECTION ANALYSIS

Section 1 would eliminate the discretion of the Federal Circuit to decide whether to hear OPM petitions for review. Currently, OPM must file a petition with the Federal Circuit and ask the Court to hear its appeal. This section requires the Federal Circuit to hear every appeal from a final MSPB decision brought by OPM.

Section 2 would allow OPM 60 days, rather than the 30 days under current law, to file a petition for review of an MSPB final decision with the United States Court of Appeals for the Federal Circuit. The time available for employees to appeal would not be affected by this change.

By Mr. DASCHLE:

S. 1496. A bill to remove inequities between Congressional and contract employees regarding access to health insurance; to the Committee on Governmental Affairs.

THE CONGRESSIONAL CONTRACTOR HEALTH INSURANCE EQUITY ACT

Mr. DASCHLE. Mr. President, today I am reintroducing legislation to provide employees of congressional contractors the same access to health coverage as other congressional workers. This bill should have passed last year, when I was thwarted in an effort to pass this measure as an amendment to the Treasury-Postal Appropriations bill.

Instead, another 12 months have gone by in which workers in this very building lack health insurance while you and I and our staffs have access to a wide variety of subsidized health plans.

In fact, about 1,900 employees of companies that contract with the Federal Government do not have employer-sponsored health insurance. Efforts to privatize even more services previously performed by Federal Government workers will exacerbate this situation.

Who are these contractors? They include House restaurant and mailroom staff, electronics technicians, day care providers, accountants, data processors, and construction and maintenance workers.

They are like you and me and others with whom we work side-by-side in the Halls of the Congress, except they don't have the kind of health security we take for granted.

As we devise new ways to extend health coverage to uninsured children and workers between jobs, how can we in Congress allow individuals who prepare our meals, repair our equipment, maintain our buildings, and care for our children go without the same coverage that we provide our staff?

In good conscience, we can't.

That's why I am introducing a bill that would require firms that contract with Congress to offer insurance to their employees. This requirement would apply to firms that employ 15 or more workers, and that have Federal contracts worth over $75,000.

These contractors could buy a private health plan, or they could select a plan from FEHBP. In either case, they would be required to contribute to employees' premiums, just as the Federal Government contributes to its workers' coverage.

This would ensure that everyone working full-time for Congress has access to high quality, comprehensive coverage.

This kind of action is not without precedent.

Several years ago, concern about high turnover among Senate daycare employees led the Senate to give these contract workers FEHBP coverage.

And Congress has a long history of taking action to guarantee fair working conditions for contract workers. For 65 years, the Davis-Bacon Act and other similar measures have guaranteed competitive wages to Federal contract workers.

This bill complements those efforts.

But passing of this measure is not just a humane gesture. It is a practical one.

Health costs for uninsured workers who become ill are simply shifted onto others. They are shifted onto public programs like Medicaid; to doctors and hospitals in the form of charity care; and into the premiums paid by those with access to private coverage.

Clearly, we're all paying, one way or another, for those who have no insurance. And we're paying more than necessary. The uninsured often forgo preventive care and early intervention only to end up in an emergency room or hospital bed instead.

Congress should not tolerate this kind of inefficient cost shifting. We should be setting an example for the rest of the Government and the private sector.

Some may say this measure will reduce the cost savings from privatization. I believe Congress should contract out services performed more efficiently by the private sector. But reducing benefits like health coverage to save money is penny wise and pound foolish. And even if outsourcing is the wave of the future, Congress should set an example by protecting rights and benefits of those caught in the transition.

Cutting costs by cutting benefits may be easy, but it's not efficient, and it's not responsible. Congress should not save money by denying workers a basic benefit.

For many years now, Members of Congress have spoken on the floor about the need to extend coverage to the uninsured. We all recognize there can be no financial security without health security.

Let's show the country that what is good for Members of Congress and their employees is also good for the contractors who serve us.

I hope my colleagues will join me in support of this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1496

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Congressional Contractor Health Insurance Equity Act''.

SEC. 2. DEFINITIONS.

For purposes of this Act:

(1) CONTRACT.—The term ''contract'' means any contract for items or services or any lease of Government property (including any subcontract of such contract or any sublease of such lease)—

(A) the consideration with respect to which is greater than $75,000 per year,

''(B) with respect to a contract for services, requires at least 1000 hours of services, and

(B) entered into between any entity or instrumentality of the legislative branch of the Federal Government and any individual or entity employing at least 15 full-time employees.

(2) EMPLOYEE.—The term ''employee'' has the meaning given such term under section 3(6) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(6)).

(3) ENTITY OF THE LEGISLATIVE BRANCH.—The term ''entity of the legislative branch'' includes the following:

(A) The House of Representatives.

(B) The Senate.

(C) The Capitol Guide Service.

(D) The Capitol Police.

(E) The Congressional Budget Office.

(F) The Office of the Architect of the Capitol.

(G) The Office of the Attending Physician.

(H) The Office of Compliance.

(4) GROUP HEALTH PLAN.—The term ''group health plan'' means any plan or arrangement which provides, or pays the cost of, health benefits that are actuarially equivalent to the benefits provided under the standard option service benefit plan offered under chapter 89 of title 5, United States Code.

(5) INSTRUMENTALITY OF THE LEGISLATIVE BRANCH.—The term ''instrumentality of the legislative branch'' means the following:

(A) The General Accounting Office.

(B) The Government Printing Office.

(C) The Library of Congress.

SEC. 3. GENERAL REQUIREMENTS CONCERNING CONTRACTS COVERED UNDER THIS ACT.

(a) IN GENERAL.—Any contract made or entered into by any entity or instrumentality of the legislative branch of the Federal Government shall contain provisions that require that—

(1) all persons employed by the contractor in the performance of the contract or at the location of the leasehold be offered health insurance coverage under a group health plan; and

(2) with respect to the premiums for such plan with respect to each employee—

(A) the contractor pay a percentage equal to the average Government contribution required under section 8906 of title 5, United States Code, for health insurance coverage provided under chapter 89 of such title; and

(B) the employee pay the remainder of such premiums.

(b) OPTION TO PURCHASE.—

(1) IN GENERAL.—Notwithstanding section 8914 of title 5, United States Code, a contractor to which subsection (a) applies that does not offer health insurance coverage under a group health plan to its employees on the date on which the contract is to take effect, may obtain any health benefits plan offered under chapter 89 of title 5, United States Code, for all persons employed by the contractor in the performance of the contract or at the location of the leasehold. Any contractor that exercises the option to purchase such coverage shall make any Government contributions required for such coverage under section 8906 of title 5, United States Code, with the employee paying the contribution required for such coverage for Federal employees.

(2) CALCULATION OF AMOUNT OF PREMIUMS.—Subject to paragraph (3)(B), the Director of the Office of Personnel Management shall calculate the amount of premiums for health benefits plans made available to contractor employees under paragraph (1) separately from Federal employees and annuitants enrolled in such plans.

(3) REVIEW BY OFFICE OF PERSONNEL MANAGEMENT.—

(A) ANNUAL REVIEW.—The Director of the Office of Personnel Management shall review at the end of each calendar year whether the nonapplication of paragraph (2) would result in higher adverse selection, risk segmentation in, or a substantial increase in premiums for such health benefits plans. Such review shall include a study by the Director of the health care utilization and risks of contractor employees. The Director shall submit a report to the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate which shall contain the results of such review.

(B) NONAPPLICATION OF PARAGRAPH (2).—Beginning in the calendar year following a certification by the Director of the Office of Personnel Management under subparagraph (A) that the nonapplication of paragraph (2) will not result in higher adverse selection, risk segmentation in, or a substantial increase in premiums for such health benefits plans, paragraph (2) shall not apply.

(4) REQUIREMENT OF OPM.—The Director of the Office of Personnel Management shall take such actions as are appropriate to enable a contractor described in paragraph (1) to obtain the health insurance described in such paragraph.

(c) ADMINISTRATIVE FUNCTIONS.—

(1) IN GENERAL.—The office within the entity or instrumentality of the legislative branch of the Federal Government which administers the health benefits plans for Federal employees of such entity or instrumentality shall perform such tasks with respect to plan coverage purchased under subsection (b) by contractors with contracts with such entity or instrumentality.

(2) WAIVER AUTHORITY.—Waiver of the requirements of this Act may be made by such office upon application.

SEC. 4. EFFECTIVE DATE.

(a) IN GENERAL.—This Act shall apply with respect to contracts executed, modified, or renewed on or after January 1, 1998.

(b) TERMINATION.—

(1) IN GENERAL.—This Act shall not apply on and after October 1, 2002.

(2) TRANSITION RULE.—In the case of any contract under which, pursuant to this Act, health insurance coverage is provided for calendar year 2002, the contractor and the employees shall, notwithstanding section 3(a)(2), pay 1⅓ of the otherwise required monthly premium for such coverage in monthly installments during the period beginning on January 1, 2002, and ending before October 1, 2002.

By Mr. LAUTENBERG:

S. 1497. A bill to release contributors of ordinary trash and minor amounts of hazardous substances from litigation under Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and for other purposes; to the Committee on Environment and Public Works.

THE EQUITY AND PUBLIC INVOLVEMENT IN SUPERFUND ACT OF 1997

Mr. LAUTENBERG. Mr. President, today I am introducing the Equity and Public Involvement in Superfund Act of 1997 [TEPI].

Hazardous sites, the legacy of our industrial growth, litter the landscape across America. Many of those sites are toxic and pose real threats to the groundwater, the air and our water, and accordingly, our health and the health of the environment. The worst of those sites are so foul and so polluted that they are beyond the capacity of most States to handle. These sites, placed on the national priorities list for clean up under the Comprehensive Environmental Response Compensation, and Liability Act commonly known as Superfund can take years to clean up and cost tens of millions of dollars to clean up. They are ticking time bombs that threaten the health and survival of entire communities.

Over the years the hazardous waste clean up program has been heavily criticized as being too slow, involving too much litigation and too expensive. Congress addressed many of those problems in 1986, and Administrator Carol

Browner of the Environmental Protection Agency [EPA] has instituted many reforms to speed up the cleanup program. The results are dramatic. EPA has completed cleanup construction at 498 sites and more than 500 additional sites are in construction. Taxpayers have saved $12 billion because polluters responsible for these sites are performing or funding approximately 70 percent of Superfund long-term cleanups. But, problems remain, partly because big corporate polluters are using the present law to drag tiny merchants and other parties who are minor polluters, or innocents who merely sent solid waste to a municipal landfill, into expensive lawsuits.

A recent story televised by ''60 Minutes'' on the Keystone landfill in Pennsylvania showed the scope of the problem. The story centered on Barbara Williams, the owner of the Sunny Ray Restaurant in Gettysburg, PA, who was being sued by the sites' toxic polluters for $75,000 because of the mashed potatoes she sent to the dump. Tiny gift stores, and other small businesses were dragged into a Superfund suit because they had sent regular trash to the Keystone Landfill.

EPA Administrator Carol Browner is aware of this problem and has been trying to do something about it. She has offered expedited settlements, known as de minimis settlements, to more than 20,000 parties nationwide whose contribution to Superfund sites is comparatively small. She has also offered settlements for as little as $1.00, known as de micromis settlements, to parties whose contributions of hazardous waste to a site are minuscule, but whose payments to lawyers have been immense.

While EPA has done an admirable job at ameliorating the aspect of the law that allows contribution litigation to happen, and indeed has deterred instances of egregious litigation, EPA can only do so much within the confines of the law and within the context of litigation. The law needs to be changed to put an end to these harassment suits. Since 1993, the Senate Environment and Public Works Committee repeatedly has tried to bridge the differences that exist on Superfund and send a reform bill to the President.

Mr. President, as the ranking Democratic member of the Superfund Subcommittee, I have spent many hours over the past several months with the Chairman of the Environment and Public Works Committee, Senator CHAFEE, and the Superfund Subcommittee Chairman Senator SMITH, Administrator Browner and Senator BAUCUS, the ranking Democratic member of the full committee. We've been negotiating a broad-based reform of the Nation's hazardous waste cleanup program. We have narrowed the differences between our views of how to fix Superfund. On October 22, 1997, Senators CHAFEE and SMITH made a global proffer on each title of their chairman's mark. The next week, Senator BAUCUS and I made a counter to their proffer that made significant concessions on each title of the bill.

We thought progress was being made. However, instead of responding to our last offer, the Republicans decided to end negotiations, at least for now.

Mr. President, Superfund reform has taken too long and, as a result municipalities, small businesses and communities in and around Superfund and brownfields sites are paying a high price for our inability to address their needs. It has long been my position that we should move ahead in areas where we can agree, and not hold our citizens and communities hostage to remaining disagreements. Earlier this year, as I have before, I introduced S. 18, the Brownfields and Environmental Cleanup Act. I have also introduced S. 1317, the Environmental Health Protection Act, to move ahead to protect the health of citizens living near Superfund sites. These are non-controversial bills that could pass without objection. It is unacceptable and unconscionable that we would continue to leave citizens subject to illness—and perhaps even death, by cancer—when we can take steps now to reduce those risks. As a companion to those measures, today I am introducing the Equity and Public Involvement Act to address liability issues that enjoy virtual universal support. This bill addresses those Superfund failings of which most constituents complain, and contains solutions that have been agreed on by both Republicans and Democrats for years.

Mr. President, the bill I am introducing today will bring relief to the thousands of small businesses and municipalities who have been swept into the Superfund litigation net by high-paid lawyers for big corporate polluters, even though those small businesses, churches and charities sent only municipal solid waste, common garbage, to the site. The provisions exempt individual homeowners, small business, and small nonprofits who have disposed only ordinary household trash. The provisions also limit the liability of big business and municipalities who have disposed household trash, consistent with an EPA draft policy, by allowing parties to cash-out on the basis of an easy-to-calculate formula that depends largely upon the volume of the trash these entities disposed, and the type of cleanup taking place at the site. Site did not have toxic pollutants driving up the cost of clean up. Plain and simple, these provisions prevent polluters from shifting cleanup costs to local taxpayers.

The bill also provides protection for other businesses who sent small amounts of toxic waste to sites. Businesses which sent very small amounts—less than two barrels—will be exempt from lawsuits. Those who sent small amounts, but more than two barrels, will be subject to an expedited settlement process. For those small contributors and larger contributors of toxic waste, the amount they will have to pay will be cushioned by their ability to pay.

The bill also protects landowners who live next door to hazardous waste sites by clarifying that they are not liable parties under the Superfund statute.

In addition, the bill expands the public's ability to participate in the critical decisions concerning the cleanup in their neighborhoods. Throughout the negotiations, we have met extensively with community representatives and stakeholders on Superfund to learn what works and what doesn't.

Stakeholders meetings with companies involved in multiple Superfund sites and cleanups at Department of Energy and Defense facilities showed that when communities near sites are involved early in the process, remedies are selected more quickly and there is more trust in the level of cleanup.

Community representatives argued passionately for the right to be fully informed and involved in these critical decisions. To respond to this concern, this bill includes provisions that significantly increase community input at all Superfund sites and in all aspects of the process of remedying the ill effects of toxic sites. Included in this bill are provisions for technical assistance grants, known as TAG's, to communities to hire technical experts to help them interpret the often highly technical data. These provisions enjoy broad support.

Mr. President, the liability reform provisions I have outlined and the community participation programs I have described are not controversial. Many were included in S. 8, a bill that Senators CHAFEE and SMITH introduced with significant Republican support on the first day of the Senate session. However, that bill has not moved and negotiations on a broader bill have broken down, at least for the moment. Therefore, I think it is appropriate for the Congress to move ahead to reform the law where we can agree, and continue to discuss and negotiate the issues on which there remains disagreement.

The bill I am introducing today is simple: It frees the hostages of stalled Superfund negotiations—the small businesses, churches, municipalities and their taxpayers, as well as neighboring landowners caught up in Superfund liability who have been waiting for years for a Superfund reform bill. They should not be held hostage to forces intent on repealing the principle of polluter pays and weakening cleanup of our natural resources who have not let a bill go forward because they can't get their way on those issues.

Mr. President, this bill does not address all of the issues on which we could move forward today with virtual unanimous support. But, in conjunction with other legislation I have introduced, it could solve many of the worst of Superfund's problems.

This fall I introduced S. 1317, the Environmental Health Protection Act, to

expand the public health aspects of hazardous waste cleanup. That bill allows the Agency for Toxic Substances and Disease Registry [ATSDR] to study any location where there is concern that hazardous wastes threaten public health and requires that ATSDR work closely with State and local health officials in making its assessment.

ATSDR is frequently criticized because its health assessments are completed too late in the process to be of any real value to local officials struggling to manage the health impact of a hazardous waste site on a community. S. 1317 changes the way EPA and the health authorities do their job. It requires EPA to notify local and State health officials early in the process that an investigation is commencing and to better coordinate their activities with local authorities so that EPA's proposed remedy better reflects local conditions and needs.

Also, S. 1317 requires EPA to directly involve State and local health officials in deciding where and how to take samples at hazardous waste sites. State and local health officials are often the frontline experts. They have important first-hand information on how a toxic waste dump affects their community. Working with EPA, they can better determine and analyze possible health problems in a community and whether that pattern arises from a toxic waste dump. With this information, EPA can zero-in on those areas for additional sampling and further studies as well as design a site appropriate remedy that meets the special circumstances of the affected community.

There is absolutely no reason why the Congress should not move ahead to approve S. 1317 now and every reason why we should. It would reduce health risks to our citizens and I know of no one who objects to it.

On the first day of this Congress, last January, I introduced S. 18, the Brownfields and Environmental Cleanup Act of 1997. This bill would make Federal grants for revolving loan funds used for remediation of brownfields available throughout the country. It would also protect innocent landowners and prospective purchasers of brownfield sites. Mr. President, if we could free this hostage, I know the Congress could move quickly to agree on brownfields legislation.

Mr. President, we appear to be at a standoff in Superfund negotiations for the moment. If that remains the case next January when we reconvene, I hope the Congress will move ahead to enact this legislation, along with my brownfields, community participation and environmental health protection bills. I also think we should extend the Superfund excise and corporate income tax. The tax, which expired in 1995, brings in sufficient revenue to cover the entire fiscal year 1998 Superfund appropriation. Without the tax, industry is saving $26 million a week—an amount sufficient enough to encourage some of those businesses to oppose any reform if the cost of reform is reinstituting the tax. Mr. President, that tax must be reinstated.

Mr. President, on the first days of the session this year, Senator BAUCUS and I joined EPA Administrator Carol Browner to urge the Senate to pass a brownfields bill immediately and not hold it hostage to a broader Superfund bill. I said at that time:

> We have a long way to go before we get a bill that enjoys bipartisan support, and that can be signed into law. We can't wait. We need to do something now, not only to help the environment, but to assist those urban areas which are struggling with economic recovery. . . .
>
> But that bill, because of the number of issues in controversy, will not pass quickly. And while many people believe that Superfund can only be passed as a comprehensive package, last year we did pass some Superfund provisions separately for lenders, fiduciaries and the Department of Defense. . . .
>
> In my view, we ought to sit down and quickly pass a brownfields bill.
>
> The sooner we do, the sooner we may be able to convert thousands of abandoned industrial sites into engines of economic development.

Mr. President, those words are even more true today than they were in January. We've let an entire year go by, without results. Let's pass this bill, the brownfields legislation, and community participation and environmental health programs. Let's make Superfund a shield to protect our communities, not a sword used to hold them hostage.

Mr. President, I look forward to continuing negotiations with Senators CHAFEE, SMITH, and BAUCUS next year to address the broader issues. But with a full year behind us, I believe we should serve up to our constituents what we can now deliver.

Mr. President, I ask unanimous consent that a copy of the bill be inserted into the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1497

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Equity and Public Involvement in Superfund Act of 1997''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

TITLE I—ENHANCED COMMUNITY PARTICIPATION

SEC. 101. DEFINITIONS.

(a) IN GENERAL.—Section 117 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9617) is amended—

(1) by redesignating subsections (a) through (e) as subsections (b) through (f), respectively; and

(2) by inserting after the section heading the following:

''(a) DEFINITIONS.—In this section:

''(1) AFFECTED COMMUNITY.—The term 'affected community' means a group of 2 or more individuals who may be affected by the release or threatened release of a hazardous substance, pollutant, or contaminant from a covered facility.

''(2) COVERED FACILITY.—The term 'covered facility' means a facility—

''(A) that has been listed or proposed for listing on the National Priorities List;

''(B) at which the President is undertaking a removal action that is expected to exceed—

''(i) in duration, 1 year; or

''(ii) in cost, the funding limit established under section 104(c)(1); or

''(C) with respect to which the Administrator of ATSDR has accepted a petition requesting a health assessment under section 104(i)(6)(B), and that is under investigation by the Administrator of the Environmental Protection Agency under subsection (a) or (b) of section 104.

''(3) WASTE SITE INFORMATION OFFICE.—The term 'waste site information office' means a waste site information office established under subsection (j).''.

(b) CONFORMING AMENDMENTS.—

(A) Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended—

(i) in section 111(a)(5) (42 U.S.C. 9611), by striking ''117(e)'' and inserting ''117(f)'';

(ii) in section 113(k)(2)(B) (42 U.S.C. 9613)—

(I) in clause (iii), by striking ''117(a)(2)'' and inserting ''117(b)(2)''; and

(II) in the third sentence, by striking ''117(d)'' and inserting ''117(e)''.

(B) Section 2705(e) of title 10, United States Code, is amended—

(i) by striking ''117(e)'' and inserting ''117(f)''; and

(ii) by striking ''(42 U.S.C. 9617(e))'' and inserting ''(42 U.S.C. 9617(f))''.

SEC. 102. PUBLIC PARTICIPATION GENERALLY.

Section 117 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9617) (as amended by section 101(b)) is amended—

(1) in subsection (b)(2), by inserting '', adequate notice,'' after ''oral comments'';

(2) in the first sentence of subsection (e), by striking ''major''; and

(3) by striking subsection (f) and inserting the following:

''(f) AVAILABILITY OF RECORDS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), throughout all phases of a response action at a facility and without the need to file a request under section 552 of title 5, United States Code, the President shall make available to the affected community (including the recipient of a technical assistance grant (if a grant has been awarded under subsection (i)) or a community advisory group (if a community advisory group has been established)), for inspection and, subject to reasonable fees, for copying, all records in the administrative record established by the President under section 113(k).

''(2) EXEMPT RECORDS.—Paragraph (1) shall not apply to—

''(A) a record that is exempt from disclosure under section 552 of title 5, United States Code;

''(B) a record that would be subject to the prohibition on disclosure under section 104(e)(7) if the record were obtained under section 104; or

''(C) a record that is exchanged between parties to a dispute under this Act for the purpose of settling the dispute.''.

SEC. 103. IMPROVEMENT OF PUBLIC PARTICIPATION IN THE SUPERFUND DECISIONMAKING PROCESS; LOCAL COMMUNITY ADVISORY GROUPS; TECHNICAL ASSISTANCE GRANTS.

Section 117 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9617) (as amended by section 101(b)(1)) is amended by adding at the end the following:

''(g) IMPROVEMENT OF PUBLIC PARTICIPATION IN DECISIONMAKING PROCESS.—

''(1) VIEWS AND PREFERENCES.—

''(A) SOLICITATION.—To the extent practicable, in addition to the solicitation of public comments on a proposed remedial action plan under subsection (b)(2), the President, during the response action process (including a response under subsection (h)(4)(A)), shall—

''(i) disseminate information to the local community, in particular, information concerning the effects of the facility on human health, including the effects on children and other highly susceptible or highly exposed populations;

''(ii) solicit information from the local community;

''(iii) consider the views of the local community; and

''(iv) include, in any administrative record established under section 113(k), the views of the local community and the response of the Administrator to any significant comments, criticisms, or new data submitted in a written or oral presentation.

''(B) PROCEDURE.—To solicit the views and concerns of the community, the Administrator may conduct, as appropriate—

''(i) face-to-face community surveys for purposes including the identification of the location of private drinking water wells, historic and current or potential use of water, and other environmental resources in the community;

''(ii) public meetings; and

''(iii) other appropriate participatory activities.

''(C) PUBLIC MEETINGS.—The Administrator shall give particular consideration to providing the opportunity for public meetings in advance of significant decision points in the response action process.

''(D) CONSULTATION.—In determining which of the procedures set forth in subparagraph (B) may be appropriate, the Administrator shall consult with a community advisory group, if 1 has been established under subsection (h), and members of the affected community.

''(E) NOTIFICATION.—The President shall notify the local community and local government concerning—

''(i) the schedule for commencement of construction activities at a covered facility and the location and availability of construction plans;

''(ii) the results of the any review under section 121(c) and any modifications to the selected response made as a result of the review; and

''(iii) the execution of and any revision to institutional controls being used as part of a remedial action.

''(2) MEETINGS BETWEEN LEAD AGENCY AND POTENTIALLY RESPONSIBLE PARTIES.—The President, on a regular basis, shall inform local government officials, Indian tribes, a local community advisory group (if any) and, to the extent practicable, interested members of the affected community of the progress and substance of technical meetings between the lead agency and potentially responsible parties regarding a covered facility.

''(3) REMEDIAL ACTION ALTERNATIVES.—A member of the local community may propose a remedial action alternative in the same manner as any other interested party may propose a remedial action alternative.

''(h) COMMUNITY ADVISORY GROUPS.—

''(1) NOTICE.—The President shall, to the extent practicable, provide notice of an opportunity to form a community advisory group to members of the affected community, particularly persons that are immediately proximate to or that may be or may have been affected by a release or threatened release.

''(2) ESTABLISHMENT.—The President shall assist in the establishment of a community advisory group for a covered facility to achieve direct, regular, and meaningful communication among members of the local community throughout the response action process—

''(A) at the request of at least 20 individuals residing in, or at least 10 percent of the population of, the area in which the facility is located;

''(B) if there is no request under subparagraph (A), at the request of any local government with jurisdiction over the facility; or

''(C) if the President determines that a community advisory group would be helpful to achieve the purposes of this Act.

''(3) RESPONSIBILITIES OF A COMMUNITY ADVISORY GROUP.—A community advisory group shall—

''(A) solicit the views of the local community on various issues affecting the development and implementation of response actions at the facility;

''(B) serve as a conduit for information between the local community and other entities represented on the community advisory group;

''(C) present the views of the local community throughout the response process; and

''(D) provide the local community reasonable notice of and opportunities to participate in the meetings and other activities of the community advisory group.

''(4) RESPONSIBILITIES OF THE PRESIDENT.—

''(A) CONSULTATION.—The President shall—

''(i) consult with the community advisory group in developing and implementing the response action for a covered facility, including consultation with respect to—

''(I) sampling, analysis, and monitoring plans and results;

''(II) assumptions regarding reasonably anticipated future land uses;

''(III) potential remedial alternatives;

''(IV) selection and implementation of removal and remedial actions (including operation and maintenance activities) and reviews performed under section 121(c); and

''(V) use of institutional controls;

''(ii) encourage the Administrator of ATSDR, in cooperation with State, Indian tribe, and local public health officials, to consult with the community advisory group regarding health assessments;

''(iii) keep the community advisory group informed of progress in the development and implementation of the response action; and

''(iv) on request, provide to any person the hazard ranking score of any facility that has been scored under the hazardous ranking system, and the preliminary assessment and site inspection for the facility.

''(B) CONSIDERATION OF COMMENTS.—The President shall consider comments, information, and recommendations that the community advisory group provides in a timely manner.

''(C) CONSENSUS.—The community advisory group shall attempt to achieve consensus among its members before providing comments and recommendations to the President. If consensus cannot be reached, the community advisory group shall report or allow presentation of divergent views.

''(5) COMPOSITION OF COMMUNITY ADVISORY GROUPS.—

''(A) MEMBERS.—

''(i) MEMBERS.—The President shall, to the extent practicable, ensure that the membership of a community advisory group reflects the composition of the affected community and a diversity of interests.

''(ii) REPRESENTED GROUPS.—A community advisory group for a covered facility shall include at least 1 representative of the recipients of a technical assistance grant, if any has been awarded with respect to the facility, and shall include, to the extent practicable, a person from each of the following groups:

''(I) Persons who reside or own residential property near the facility.

''(II) Persons who, although they may not reside or own property near the facility, may be affected by the facility contamination.

''(III) Local public health practitioners or medical practitioners (particularly those who are practicing in the affected community).

''(IV) Local Indian communities that may be affected by the facility contamination.

''(V) Local citizen, civic, environmental, or public interest groups.

''(VI) Members of the local business community.

''(VII) Employees at the facility during facility operation.

''(B) LOCAL RESIDENTS.—Local residents shall, to the extent practicable, comprise a majority of the voting membership of a community advisory group.

''(C) NUMBER OF VOTING MEMBERS.—The President shall, to the extent practicable, ensure that the voting membership of the community advisory group does not exceed 20 individuals.

''(D) COMPENSATION.—A member of a community advisory group shall serve without compensation.

''(E) NONVOTING MEMBERS.—The President shall provide opportunities for representatives of the following entities to participate (as nonvoting members), as appropriate, in community advisory group meetings for purposes including providing information and technical expertise:

''(i) The Administrator.

''(ii) Other Federal agencies.

''(iii) Affected States.

''(iv) Affected Indian tribes.

''(v) Representatives of affected local governments (such as city or county governments or local emergency planning committees, and any other governmental unit that regulates land use or land use planning in the vicinity of the facility).

''(vii) Facility owners.

''(viii) Potentially responsible parties.

''(6) TECHNICAL ASSISTANCE GRANTS.—The President may award a technical assistance grant under subsection (i) to a community advisory group.

''(7) ADMINISTRATIVE SUPPORT.—The President, to the extent practicable, may provide administrative services and support services to the community advisory group.

''(8) FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to a community advisory group, to a citizen advisory group (designated by the President to serve the functions of a community advisory group, or

to a Department of Defense restoration advisory board, Department of Energy Site Specific advisory board, or an ATSDR citizen advisory panel.

''(9) OTHER PUBLIC INVOLVEMENT.—The existence of a community advisory group shall not diminish any other obligation of the President to consider the views of any person in selecting response actions under this Act. Nothing in this section affects the status of any community advisory group formed before the date of enactment of this subsection. Nothing in this section affects the status, decisions, or future formation of any Department of Defense Restoration Advisory Board, or Department of Energy Site Specific Advisory Board, and no community advisory group need be established for a facility if any such Board has been established for the facility.

''(i) TECHNICAL ASSISTANCE GRANTS.—

''(1) AUTHORITY.—

''(A) IN GENERAL.—The President may make technical assistance grants available to members of an affected community for a covered facility in accordance with this subsection.

''(B) ACCESSIBILITY OF APPLICATION PROCESS.—To ensure that the application process for a technical assistance grant is accessible to all affected citizen groups, the President shall periodically review the process and the application and, based on the review, implement appropriate changes to improve access.

''(C) NOTICE OF AVAILABILITY OF GRANTS.—The President shall solicit the assistance of a waste site information office in notifying the affected community (including an Indian tribe) of the availability of a technical assistance grant for a covered facility as soon as practicable after the President has begun a response action at the covered facility.

''(2) SPECIAL RULES.—

''(A) NO MATCHING CONTRIBUTION.—No matching contribution shall be required for a technical assistance grant.

''(B) ADVANCE PAYMENTS.—The President may disburse the grant to a recipient in advance of the recipient's making expenditures to be covered by the grant. In the event that the President advances funds, funds shall be advanced in amounts that do not exceed the greater of $5,000 or 10 percent of the grant amount.

''(3) LIMIT PER FACILITY.—

''(A) IN GENERAL.—The Administrator may award not more than 1 technical assistance grant at 1 time with respect to a single covered facility.

''(B) EXTENSION.—The Administrator may extend a project period established in a grant to facilitate public participation at all stages of a response action.

''(4) FUNDING AMOUNT.—

''(A) LIMIT.—Except as provided in subparagraph (B), the amount of a technical assistance grant may not exceed $50,000 for a single grant recipient.

''(B) WAIVER OF LIMIT.—The President may waive the limit on the amount of a technical assistance grant under subparagraph (A) if a waiver is necessary—

''(i) to carry out the purposes of this Act; or

''(ii) to reflect—

''(I) the complexity of the response action;

''(II) the nature and extent of contamination at the facility;

''(III) the level of facility activity;

''(IV) projected total needs as requested by the grant recipient;

''(V) the sizes and distances between the affected communities; or

''(VI) the ability of the grant recipient to identify and raise funds from other non-Federal sources.

''(5) CONSIDERATIONS.—In determining how to structure payment of the amount of a technical assistance grant, whether to extend a grant project period under subparagraph (3)(B), or whether to grant a waiver under paragraph (4)(B), the Administrator may consider factors such as the geographical size of the facility and the distances between affected communities.

''(6) USE OF TECHNICAL ASSISTANCE GRANTS.—

''(A) IN GENERAL.—A technical assistance grant recipient may use a grant—

''(i) to hire experts to assist the recipient in interpreting information and presenting the recipient's views with regard to a response action at the facility (including any aspect of a response action identified in subsection (h)(4)(A));

''(ii) to publish newsletters or otherwise disseminate information to other members of the local community; or

''(iii) to provide funding for training for interested affected citizens to enable the citizens to more effectively participate in the response process.

''(B) LIMITATION ON USE FOR TRAINING.—A technical assistance grant recipient may use not more than 10 percent of the amount of a technical assistance grant, or $5,000, whichever is less, for training under subparagraph (A)(iii).

''(7) GRANT GUIDELINES.—Not later than 180 days after the date of enactment of this paragraph, the President shall ensure that any guidelines concerning the management of technical assistance grants by grant recipients conform with this section.''.

SEC. 104. WASTE SITE INFORMATION OFFICES.

Section 117 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9617) (as amended by section 103) is amended by adding at the end the following:

''(j) WASTE SITE INFORMATION OFFICES.—

''(1) ESTABLISHMENT.—

''(A) IN GENERAL.—Subject to subparagraph (B), not later than 18 months after the date of enactment of this subsection, a State or Indian tribe with a facility on the National Priorities List within the State or Indian tribe's borders or reservation boundaries, respectively, may establish a waste site information office to perform the functions set forth in paragraph (3).

''(B) EXISTING OFFICES.—A State or Indian tribe may designate an office in existence before the date of enactment of this subsection to perform the functions of a waste site information office.

''(C) EPA ROLE.—If the State or Indian tribe notifies the Administrator that the State or Indian tribe does not intend to establish a waste site information office, or if the Administrator determines that the State or Indian tribe has not established, within 18 months after the date of enactment of this subsection, an office to perform the functions of a waste site information office, the Administrator shall establish an office within the Environmental Protection Agency to perform the functions.

''(2) FUNDING.—

''(A) IN GENERAL.—Funding for the operation of waste site information offices, or State, Indian tribe, or Environmental Protection Agency offices that perform similar functions, collectively, shall not exceed $12,500,000 for a fiscal year.

''(B) STATE OR TRIBAL GRANTS.—Each State or Indian tribe that has a waste site information office, or each State, Indian tribe, or Environmental Protection Agency office performing the functions of a waste site information office, shall receive not less than $100,000 for a fiscal year for the performance of those functions.

''(C) FORMULA.—

''(i) IN GENERAL.—The Administrator shall publish guidelines establishing a formula for determining the amount of funding for each waste site information office.

''(ii) FACTORS.—The formula shall include factors such as the number of facilities listed on the National Priorities List and the number of other covered facilities within the State's borders or Indian tribe's reservation boundaries.

''(3) FUNCTIONS.—

''(A) IN GENERAL.—A waste site information office shall, to the extent practicable—

''(i) assist the Administrator in—

''(I) informing the public regarding the existence of the waste site information office and its services and making available the information described in clause (ii); and

''(II) notifying the public of public meetings and other opportunities to participate under this Act and the rights of the public under this Act; and

''(ii) serve as a clearinghouse, and maintain records, as appropriate, for waste site information, including—

''(I) information relating to the operation of Federal, State, and tribal hazardous substance and waste laws with respect to the State or Indian tribe;

''(II) information relating to each covered facility in the State or tribal reservation, to the extent information becomes available, including—

''(aa) the location, characteristics, and name of owner and operator of the covered facility;

''(bb) the hazardous substances, pollutants, and contaminants at the facility;

''(cc) the response actions being taken, including records of any institutional controls that are included in the response actions;

''(dd) use of institutional controls;

''(ee) any health studies generated in connection with the covered facility;

''(ff) the status of the response actions at the covered facility;

''(gg) the results of a review under section 121(c); and

''(hh) the locations of the administrative record created for the facility, if any, under section 113(k);

''(III) a description of the Administrator's process for identifying covered facilities and possible response actions under this Act;

''(IV) on request, the hazard ranking score of any facility for which a hazardous ranking score has been prepared and that is within the waste site information office's area of responsibility and the preliminary assessment or site inspection for the facility; and

''(V) identification of resources, including—

''(aa) technical assistance grants under subsection (h);

''(bb) opportunities for forming a community advisory group under subsection (g);

''(cc) opportunities to petition the Administrator of ATSDR to perform a health assessment or other related health activity under section 104(i)(6)(B); and

''(dd) additional technical resources, including information about how to access national databases containing toxicological, health, or other pertinent information.

''(B) REPORT.—

''(i) IN GENERAL.—Each waste site information office shall annually submit to the Administrator a report documenting how the funds under paragraph (2) were used to carry out the functions established by this subsection.

''(ii) VERIFICATION BY INSPECTOR GENERAL.—The Inspector General of the Environmental Protection Agency shall periodically review the programs carried out under this subsection.

''(iii) TERMINATION OF GRANT.—The Administrator shall terminate the grant if—

''(I) the Administrator is unable to verify a certification; or

''(II) the Administrator determines that the grant is not being used in a manner that is consistent with the functions under paragraph (3).''.

SEC. 105. TECHNICAL OUTREACH SERVICES FOR COMMUNITIES.

Section 311(d)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9660(d)(2)) is amended—

(1) by striking ''shall include, but not be limited to, the conduct of research'' and inserting the following: ''shall include—

''(A) the conduct of research'';

(2) by striking the period at the end and inserting ''; and''; and

(3) adding at the end the following:

''(B) the conduct of a program to provide to affected communities educational and technical assistance to and information regarding the effects or potential effects of the contamination on human health and the environment.''.

SEC. 106. RECRUITMENT AND TRAINING PROGRAM.

Section 117 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9617) (as amended by section 104) is amended by adding at the end the following:

''(k) RECRUITMENT AND TRAINING PROGRAM.—

''(1) IN GENERAL.—The Administrator, in consultation with the National Institute of Environmental Health Science, shall conduct a program to assist in the recruitment and training of individuals in an affected community for employment in response actions conducted at the facility concerned.

''(2) RECRUITMENT, TRAINING, AND EMPLOYMENT.—The Administrator shall encourage a person conducting a response action under this Act to have contractors of the person train in remediation skills and employ persons from the affected community.''.

SEC. 107. PRIORITY SITE EVALUATION.

Section 117 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9617) (as amended by section 106) is amended by adding at the end the following:

''(l) PRIORITY SITE EVALUATION.—

''(1) EVALUATION.—The Administrator shall solicit the assistance of the waste site information office in identifying 3 facilities in the area covered by each regional office of the Administrator in major urban areas, or other areas with minority populations and low-income populations (such as within Indian country, Indian reservations, and poor rural communities) that are likely to warrant inclusion on the National Priorities List.

''(2) PRIORITY.—Not later than 2 years after the date of enactment of this subsection, a facility identified under paragraph (1) shall be accorded a priority in evaluation for listing on the National Priorities List and scoring and shall be evaluated for listing on the National Priorities List.''.

SEC. 108. UNDERSTANDABLE PRESENTATION OF MATERIALS.

Section 117 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9617) (as amended by section 107) is amended by adding at the end the following:

''(m) PRESENTATION OF MATERIALS.—The President shall ensure that information prepared for or distributed to the public under this section shall be provided or summarized in a manner that may be easily understood by the community, considering any unique cultural needs of the community.''.

SEC. 109. NO IMPEDIMENT TO RESPONSE ACTIONS.

Section 117 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9617) (as amended by section 109) is amended by adding at the end the following:

''(n) NO IMPEDIMENT TO RESPONSE ACTIONS.—Nothing in this section shall impede or delay the ability of the Environmental Protection Agency to conduct a response action necessary to protect human health and the environment.''.

TITLE II—LIABILITY

SEC. 201. LIABILITY EXEMPTIONS AND LIMITATIONS.

(a) LIABILITY EXEMPTIONS.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) is amended by adding at the end the following:

''(o) LIABILITY EXEMPTIONS.—

''(1) CONTIGUOUS PROPERTIES.—

''(A) NOT CONSIDERED TO BE AN OWNER OR OPERATOR.—A person that owns or operates real property that is contiguous to or otherwise similarly situated with respect to a facility at which there has been a release or threatened release of a hazardous substance, that is or may be contaminated by the release, shall not be considered to be an owner or operator under paragraph (1) or (2) of subsection (a) solely by reason of the contamination if—

''(i) the person did not cause, contribute, or consent to the release or threatened release;

''(ii) the person is not associated with any other person that is potentially liable for any response costs at the facility at which there has been a release or threatened release of a hazardous substance, through any familial relationship, or any contractual, corporate, or financial relationship;

''(iii) the person exercised appropriate care with respect to hazardous substances from the facility, in light of all relevant facts and circumstances;

''(iv) the person is in compliance with any land use or activity restrictions on the property established or relied on in connection with a response action at the facility, including informing other persons that the person allows to occupy or use the property of the restrictions and taking prompt action to correct any noncompliance by such persons; and

''(v) the person provides full cooperation, assistance, and access to the persons that are authorized to conduct response actions at the facility, including the cooperation and access necessary for the installation, preservation of integrity, operation, and maintenance of any complete or partial response action at the facility.

''(B) ASSURANCES.—The President may issue an assurance that no enforcement action under this Act will be initiated against a person described in paragraph (1).

''(2) DE MICROMIS EXEMPTION.—

''(A) Notwithstanding paragraphs (1) through (4) of subsection (a), a person shall not be liable to the United States or any other person (including liability for contribution) under this Act for any response costs incurred with respect to a facility if—

''(i) liability is based solely on paragraph (3) or (4) of subsection (a);

''(ii) the total of materials containing a hazardous substance that the person arranged for disposal or treatment of, arranged with a transporter for transport for disposal or treatment, of, or accepted for transport for disposal or treatment, at the facility, was less than 110 gallons of liquid materials or less than 200 pounds of solid materials (or such other amount as the Administrator may determine on a site-specific basis); and

''(iii) the acts upon which liability is based took place wholly before July 1, 1997.

''(B) EXCEPTION.—Subparagraph (A) shall not apply in a case in which the President determines that the material containing hazardous substances referred to in subparagraph (A) contributed significantly or could contribute significantly, either individually or in the aggregate, to the cost of the response action with respect to the facility.

''(3) MUNICIPAL SOLID WASTE EXEMPTION.—Notwithstanding paragraphs (1) through (4) of subsection (a), a person shall not be liable to the United States or any other person (including liability for contribution) under this Act for any response costs incurred with respect to a facility, to the extent that—

''(A) liability is based on paragraph (3) or (4) of subsection (a); and

''(B) the person is—

''(i) an owner, operator, or lessee of residential property from which all of the person's municipal solid waste was generated;

''(ii) a business entity that, during the taxable year preceding the date of transmittal of written notification that the business is a potentially responsible party, employs not more than 100 individuals; or

''(iii) a small nonprofit organization from which all of the person's municipal solid waste was generated.

(b) LIABILITY LIMITATIONS.—Section 107 of the Comprehensive Environmental Response, Liability, and Compensation Act of 1980 (42 U.S.C. 9607) (as amended by subsection (a)) is amended by adding at the end the following:

''(p) LIABILITY LIMITATIONS.—

''(1) IN GENERAL.—A municipality that is liable for response costs under paragraph (1) or (2) of subsection (a) on the basis of ownership or operation of a municipal landfill that is listed on the National Priority List on or before January 1, 1997, shall be eligible for a settlement of that liability.

''(2) SETTLEMENT AMOUNT.—

''(A) IN GENERAL.—The President shall offer a settlement to a party with respect to liability described in paragraph (1) on the basis of a payment or other obligation equivalent in value to not more than 20 percent of the total response costs in connection with the facility.

''(B) INCREASED AMOUNT.—The President may increase the percentage under subparagraph (A) to not more than 35 percent if the President determines that—

''(i) the municipality committed specific acts that exacerbated environmental contamination or exposure with respect to the facility; or

''(ii) the municipality, during the period of ownership or operation of the facility, received operating revenues substantially in excess of the sum of the waste system operating costs plus 20 percent of total estimated response costs in connection with the facility.

''(3) PERFORMANCE OF RESPONSE ACTIONS.—As a condition of a settlement with a municipality under this subsection, the President may require that the municipality perform or participate in the performance of the response actions at the facility.

''(4) OWNERSHIP OR OPERATION BY 2 OR MORE MUNICIPALITIES.—A combination of 2 or more municipalities that jointly own or operate a facility shall be considered to be a single owner or operator for the purpose of calculating a settlement offer under this subsection.

''(5) CONDITIONS.—The limitation on settlement amount under paragraph (2) shall not apply on or after the date that is 2 years after the date of enactment of this subsection unless the municipality institutes or participates in a qualified household hazardous waste collection program before the date that is 2 years after the date of enactment of this subsection.

''(6) EXCEPTIONS.—The President may decline to offer a settlement under this subsection with respect to a facility if the President determines that—

''(A) there is no waste except municipal solid waste or municipal sewage sludge at the facility; or

''(B) all known potentially responsible parties are insolvent, defunct, or eligible for a settlement under this subsection or section 122(g).''.

(c) COSTS AND FEES.—Section 107 of the Comprehensive Environmental Response, Liability, and Compensation Act of 1980 (42 U.S.C. 9607) (as amended by subsection (b)) is amended by adding at the end the following:

''(q) COSTS AND FEES.—A person that commences an action for recovery of response costs or for contribution against a person that is not liable, or that has entered into an expedited settlement under section 107(p) or 122(g), shall be liable to the defendant for all reasonable costs of defending the action, including all reasonable attorney's fees and expert witness fees.''.

SEC. 202. EXPEDITED FINAL SETTLEMENT.

(a) PARTIES ELIGIBLE.—Section 122(g) of the Comprehensive Environment Response, Liability, and Compensation Act of 1980 (42 U.S.C. 9622(g)) is amended—

(1) by striking the subsection heading and inserting the following:

''(g) EXPEDITED FINAL SETTLEMENT.—'';

(2) in paragraph (1)—

(A) by redesignating subparagraph (B) as subparagraph (C);

(B) by striking ''(1)'' and all that follows through subparagraph (A) and inserting the following:

''(1) PARTIES ELIGIBLE.—

''(A) IN GENERAL.—The President shall, as expeditiously as practicable, notify of eligibility for a settlement, and offer to reach a final administrative or judicial settlement with, each potentially responsible party that, in the judgment of the President, meets 1 or more of the conditions stated in subparagraphs (B), (C), (D), and (E).

''(B) DE MINIMIS CONTRIBUTION.—The condition stated in this subparagraph is that the potentially responsible party's liability is for response costs based on paragraph (3) or (4) of subsection (a) and the party's contribution of hazardous substances at a facility is de minimis. For the purposes of this subparagraph, a potentially responsible party's contribution shall be considered to be de minimis only if the President determines that both of the following criteria are met:

''(i) The amount of material containing a hazardous substance contributed by the potentially responsible party to the facility is minimal relative to the total amount of material containing hazardous substances at the facility. The amount of a potentially responsible party's contribution shall be presumed to be minimal if the amount is 1 percent or less of the total amount of materials containing hazardous substances at the facility, unless the Administrator identifies a different threshold based on site-specific factors.

''(ii) The material containing a hazardous substance contributed by the potentially responsible party does not present toxic or other hazardous effects that are significantly greater than the toxic or other hazardous effects of other material containing hazardous substances at the facility.'';

(C) in subparagraph (C) (as redesignated by subparagraph (A))—

(i) by redesignating clauses (i) through (iii) as subclauses (I) through (III), respectively, and adjusting the margins appropriately;

(ii) by striking ''(C) The potentially responsible party'' and inserting the following:

''(C) OWNERS OF REAL PROPERTY.—

''(i) IN GENERAL.—The condition stated in this subparagraph is that the potentially responsible party''; and

(iii) by striking ''This subparagraph (B)'' and inserting the following:

''(ii) APPLICABILITY.—Clause (i)''; and

(D) by adding at the end the following:

''(D) CONTRIBUTION OF MUNICIPAL SOLID WASTE AND MUNICIPAL SEWAGE SLUDGE.—

''(i) IN GENERAL.—The condition stated in this subparagraph is that the liability of the potentially responsible party is for response costs based on paragraph (3) or (4) of section 107(a) and on the potentially responsible party's having arranged for disposal or treatment of, arranged with a transporter for transport for disposal or treatment of, or accepted for transport for disposal or treatment of, municipal solid waste or municipal sewage sludge at a facility listed on the National Priorities List.

''(ii) SETTLEMENT AMOUNT.—

''(I) IN GENERAL.—The President shall offer a settlement to a party referred to in clause (i) with respect to liability under paragraph (3) or (4) of section 107(a) on the basis of a payment of $3.05 per ton of municipal solid waste or municipal sewage sludge that the President estimates is attributable to the party.

''(II) FACILITY-SPECIFIC ADJUSTMENT.—The President may adjust the $3.05 amount in subclause (I), on a facility-specific basis, to not more than $3.25 per ton, if the President determines that any of the following factors is present at a facility:

''(aa) A shallow aquifer underlies the facility.

''(bb) The facility is located in an area of high rainfall or cold ambient air temperature.

''(cc) The ground water affected by the facility is classified as drinking water.

''(dd) Low-permeability cover material (such as clay) is unavailable at the facility.

''(III) REVISION.—

''(aa) IN GENERAL.—The President may revise the $3.05 and $3.25 settlement amounts under subclauses (I) and (II) by regulation.

''(bb) BASIS.—A revised settlement amount under item (aa) shall reflect the estimated per-ton cost of closure and post-closure activities at a representative facility containing only municipal solid waste.

''(iii) CONDITIONS.—The provisions for settlement described in this subparagraph shall not apply with respect to a facility where there is no waste except municipal solid waste or municipal sewage sludge.

''(iv) MUNICIPAL SEWAGE SLUDGE CONTAINING CERTAIN RESIDUE.—The President may decline to offer a settlement under this subsection to a person that arranged for disposal or treatment of, arranged with a transporter for transport for disposal or treatment of, or accepted for transport for disposal or treatment, municipal sewage sludge, if the President determines that the municipal sewage sludge contributed or could contribute significantly to the cost of the response action at the facility.

''(v) ADJUSTMENT FOR INFLATION.—The Administrator may by guidance periodically adjust the settlement amounts under clause (ii) to reflect changes in the Consumer Price Index (or other appropriate index, as determined by the Administrator).

''(vi) MUNICIPAL OWNERS AND OPERATORS.—A municipality that arranged for disposal or treatment of, arranged with a transporter for transport for disposal or treatment of, or accepted for transport for disposal or treatment, municipal solid waste or municipal sewage sludge at a facility and is a municipality that is also potentially liable under paragraph (1) or (2) of section 107(a) at the facility shall be eligible for settlement under this subparagraph and section 107(p). The settlement amount shall be equal to the settlement amount under clause (ii) with respect to its contribution of municipal solid waste or municipal sewage sludge, plus the amount provided in section 107(p) as to the liability of the municipality under paragraph (1) or (2) of section 107(a).

''(E) REDUCTION IN SETTLEMENT AMOUNT BASED ON LIMITED ABILITY TO PAY.—

''(i) IN GENERAL.—The condition stated in this subparagraph is that the potentially responsible party—

''(I) is—

''(aa) a natural person;

''(bb) a small business; or

''(cc) a municipality; and

''(II) demonstrates to the President an inability or a limited ability to pay response costs.

''(ii) COSTS BORNE BY THE UNITED STATES.—Where the United States enters into a settlement under section 122 with a party that agrees to perform work at the same facility that is the subject of a settlement under clause (i), the United States shall contribute the difference between—

''(I) the aggregate share that the Administrator determines, on the basis of information presented, to be specifically attributable to parties with a limited ability to pay response costs; and

''(II) the share actually assumed by those parties in any settlements with the United States under clause (i).

''(iii) SMALL BUSINESSES.—

''(I) DEFINITION OF SMALL BUSINESS.—In this subparagraph, the term 'small business' means a business entity that—

''(aa) together with its parents, subsidiaries, and other affiliates, had an average of not more than 50 full-time equivalent employees and an average of not more than $3,000,000 in annual gross revenues, as reported to the Internal Revenue Service, during the 3 years preceding the date on which the business entity first received notice from the President of its potential liability under this Act; and

''(bb) is not associated with any other person potentially responsible for response costs at the facility through any familial relationship, or any contractual, corporate, or financial relationship other than that arising from an arrangement for disposal or treatment, or for transport for disposal or treatment of hazardous substances.

''(iv) DEFINITION OF AFFILIATE.—In this subparagraph, the term 'affiliate' has the meaning given the term 'small business concern' in regulations promulgated by the Small Business Administration in accordance with the Small Business Act (15 U.S.C. 631 et seq.).

''(v) OTHER POTENTIALLY RESPONSIBLE PARTIES.—This subparagraph does not affect the President's authority to evaluate the ability to pay of a potentially responsible party other than a natural person, small business, or municipality, or to enter into a settlement with such other party based on that party's ability to pay.

''(F) BASIS OF DETERMINATION.—If the President determines that a potentially responsible party is not eligible for settlement under this subsection, the President shall state the reasons for the determination in writing to any potentially responsible party that requests a settlement under this paragraph. A determination by the President under this paragraph shall not be subject to judicial review.''.

(b) SETTLEMENT OFFERS.—Section 122 of the Comprehensive Environment Response, Liability, and Compensation Act of 1980 (42 U.S.C. 9622) is amended—

(1) in subsection (g)—

(A) by redesignating paragraph (6) as paragraph (10); and

(B) by inserting after paragraph (5) the following:

''(6) SETTLEMENT OFFERS.—

''(A) IN GENERAL.—As soon as practicable after receipt of sufficient information, the Administrator shall submit a written settlement offer to each person that the Administrator determines, based on information available to the Administrator at the time at which the determination is made, to be eligible for a settlement under paragraph (1).

''(B) INFORMATION.—At the time at which the Administrator submits an offer under paragraph (1), the Administrator shall, at the request of the recipient of the offer, make available to the recipient any information available under section 552 of title 5, United States Code, on which the Administrator bases the settlement offer, and if the settlement offer is based in whole or in part on information not available under that section, so inform the recipient.

''(7) LITIGATION MORATORIUM.—

''(A) IN GENERAL.—No person eligible for an expedited settlement under paragraph (1) shall be named as a defendant in any action under this Act for recovery of response costs (including an action for contribution) during the period beginning on the date on which the person receives from the President written notice of its potential liability and notice that it is a party that may qualify for an expedited settlement, and ending on the earlier of—

''(i) the date that is 90 days after the date on which the President tenders a written settlement offer to the person; or

''(ii) the date that is 1 year after the date specified in subparagraph (A).

''(B) TOLLING OF PERIOD OF LIMITATION.—The period of limitation under section 113(g) applicable to a claim against a person described in subparagraph (A) for response costs or contribution shall be tolled during the period described in subparagraph (A).

''(C) STAY OF LITIGATION.—If, before the date of enactment of this paragraph, a person described in subparagraph (A) has been named as a defendant in an action for recovery of response costs or contribution, the court shall, unless a stay would result in manifest injustice, stay the action as to that claim until the end of the period described in subparagraph (A).

''(8) NOTICE OF SETTLEMENT.—After a settlement under this subsection becomes final with any person with respect to a facility, the President shall promptly notify potentially responsible parties at the facility that have not resolved their liability to the United States of the settlement.''; and

(2) by adding at the end the following:

''(n) EXCEPTIONS.—Subsection (g) and subsections (o) and (p) of section 107 shall not apply in a case in which the President determines that the person has failed to comply with any request for information or administrative subpoena issued by the President under this Act, or has impeded or is impeding the performance of a response action with respect to the facility.

''(o) WAIVER OF CLAIMS.—The President may require, as a condition of settlement under this subsection or section 107(p), that a potentially responsible party waive some or all of the claims (including a claim for contribution under section 113) that the party may have against other potentially responsible parties for all response costs incurred at the facility.

''(p) RELATIONSHIP TO LIABILITY UNDER OTHER LAW.—Nothing in this section affects the obligation of any person to comply with any other Federal, State, or local law (including requirements under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).''.

(c) REGULATIONS.—The Administrator of the Environmental Protection Agency has the authority, under section 115 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9615), to promulgate additional regulations concerning the amendments made by this section.

By Mr. DORGAN (for himself, Mr. LAUTENBERG, Mr. BUMPERS, Mr. CONRAD, and Mr. WELLSTONE):

S. 1498. A bill to require States to adopt laws prohibiting open alcoholic containers in automobiles; to the Committee on Environment and Public Works.

THE NATIONAL DRUNK DRIVING PROTECTION ACT

Mr. DORGAN. Mr. President, today I am introducing legislation to combat our Nation's continual problem with drunk driving. This problem, that attacks young and old alike, is multifaceted and must be combating on several fronts. My bill addresses the need to take alcohol out of automobiles by establishing a national policy prohibiting open alcohol containers in automobiles.

To put this problem in perspective, an average of one person every half hour dies as a result of drunk driving, and that worked out to be 17,272 alcohol-related fatalities in 1996 according to the Department of Transportation. This figure is over 40 percent of the total number of traffic fatalities in the United States. The sad irony in these statistics is that drunk driving is a preventable problem.

Even more heart wrenching is that drunk driving is killing a disproportionate amount of our youth and young adults. In 1995, while 30 percent of our driving population was between the ages of 21–34, 50 percent of the fatalities and 50 percent of the drunk driving injuries were in this age group. That amounted to 6,760 dead and 95,800 injured young adults.

One way we must combat drunk driving is to ban the consumption of alcohol in automobiles. According to the National Highway Traffic Safety Administration, in 22 States it is still legal for passengers in a vehicle to be drinking while the vehicle is in operation. And in 10 States, it is perfectly legal for a driver of a car to have one hand on the steering wheel and drinking a bottle of whisky in the other. It seems inexcusable to me that we have a circumstance in this country where citizens cannot be assured that in every State and in every local jurisdiction in the Nation that there are not laws against people drinking and driving at the same time. This legislation will provide that assurance and prohibit open containers in every State.

I hope that the Senate will have a good debate on drunk driving issues early next year when we return to debate the reauthorization of the Intermodal Surface Transportation Efficiency Act [ISTEA]. I intend to offer this legislation as amendment to the ISTEA reauthorization and I urge my colleagues to support this effort.

I ask unanimous consent that the text of the bill be printed in the RECORD:

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1498

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Drunk Driving Protection Act''.

SECTION 2. OPEN CONTAINER LAWS.

(a) ESTABLISHMENT.—Chapter I of title 23, United States Code, is amended by inserting after section 153 the following:

''§ 154. Open container requirements

''(a) DEFINITIONS.—In this section:

''(1) ALCOHOLIC BEVERAGE.—The term 'alcoholic beverage' has the meaning given the term in section 158(c).

''(2) MOTOR VEHICLE.—The term 'motor vehicle' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated exclusively on a rail or rails.

''(3) OPEN ALCOHOLIC BEVERAGE CONTAINER.—The term 'open alcoholic beverage container' has the meaning given the term in section 410(i).

''(4) PASSENGER AREA.—The term 'passenger area' shall have the meaning given the term by the Secretary by regulation.

''(b) PENALTY.—

''(1) GENERAL RULE.—

''(A) FISCAL YEAR 2000.—If, at any time in fiscal year 2000, a State does not have in effect a law described in subsection (c), the Secretary shall transfer 1.5 percent of the funds apportioned to the State for fiscal year 2001 under each of paragraphs (1)(A), (1)(C), and (3) of section 104(b) to the apportionment of the State under section 402.

''(B) FISCAL YEARS THEREAFTER.—If, at any time in a fiscal year beginning after September 30, 2000, a State does not have in effect a law described in subsection (c), the Secretary shall transfer 3 percent of the funds apportioned to the State for the following fiscal year under each of paragraphs (1)(A), (1)(C), and (3) of section 104(b) to the apportionment of the State under section 402.

''(c) OPEN CONTAINER LAWS.—

''(1) IN GENERAL.—For the purposes of this section, each State shall have in effect a law that prohibits the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle (including possession or consumption by the driver of the vehicle) located on a public highway, or the right-of-way of a public highway, in the State.

''(2) MOTOR VEHICLES DESIGNED TO TRANSPORT MANY PASSENGERS.—For the purposes of this section, if a State has in effect a law that makes unlawful the possession of any open alcoholic beverage container in the passenger area by the driver (but not by a passenger) of a motor vehicle designed to transport more than 10 passengers (including the driver) while being used to provide charter transportation of passengers, the State shall be deemed to have in effect a law described in this subsection with respect to such a motor vehicle for each fiscal year during which the law is in effect.

''(d) FEDERAL SHARE.—The Federal share of the cost of a project carried out under section 402 with funds transferred under subsection (b) to the apportionment of a State under section 402 shall be 100 percent.

''(e) TRANSFER OF OBLIGATION AUTHORITY.—

''(1) IN GENERAL.—If the Secretary transfers under subsection (b) any funds to the apportionment of a State under section 402 for a fiscal year, the Secretary shall allocate to

the State an amount, determined under paragraph (2), of obligation authority distributed for the fiscal year for Federal-aid highways and highway safety construction programs for carrying out projects under section 402.

''(2) AMOUNT.—The amount of obligation authority referred to in paragraph (1) shall be determined by multiplying—

''(A) the amount of funds transferred under subsection (b) to the apportionment of the State under section 402 for the fiscal year; by

''(B) the ratio that—

''(i) the amount of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs; bears to

''(ii) the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to any obligation limitation) for the fiscal year.

''(f) LIMITATION ON APPLICABILITY OF HIGHWAY SAFETY OBLIGATIONS.—Notwithstanding any other provision of law, no limitation on the total of obligations for highway safety programs under section 402 shall apply to funds transferred under subsection (b) to the apportionment of a State under section 402.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by inserting after the item relating to section 153 the following:

''154. Open container requirements.''

By Mrs. BOXER:

S. 1499. A bill to amend the title XXVII of the Public Health Service Act and other laws to assure the rights of enrollees under managed care plans; to the Committee on Labor and Human Resources.

THE HEALTH INSURANCE CONSUMER'S BILL OF RIGHTS ACT OF 1997

Mrs. BOXER. Mr. President, today I am introducing the Health Insurance Consumer's bill of rights. I have been working closely on this bill with Congressman CHUCK SCHUMER, who has introduced companion legislation in the House.

Our will address an increasing crisis of confidence in our Nation's health care system. This crisis of confidence is especially evident for the increasing number of Americans enrolled in managed care health plans.

A recent survey conducted by the Henry Kaiser Family Foundation and Harvard University found that only 44 percent of enrollees in managed care health care plans believe it is very likely that necessary treatments would be covered if they became seriously ill. Fully 69 percent of enrollees in traditional fee-for-service plans believed they would be adequately covered.

The survey found that the American people hold managed care plans generally in low esteem and they support efforts to improve the health insurance system. That, Mr. President, is exactly what the Boxer-Schumer bill aims to do.

The Health Insurance Consumer's bill of rights requires all health insurance plans to meet basic requirements for conduct, coverage, and consumer disclosure.

Specifically, the bill requires that all managed care plans have an adequate number of primary care physicians and specialists to meet the health care needs of their enrollees. It requires health plans to cover emergency care, terminate so-called gag rules that limit communication between a doctor and a patient. It requires the annual disclosure of a wealth of important consumer information to enrollees and potential enrollees, and finally, this bill contains a number of important provisions to ensure that women are treated fairly in managed care plans.

I want to make clear that the Schumer-Boxer bill is not antimanaged care. On the contrary, the bill accepts that managed care plans are the chosen kind of coverage for millions of Americans. It is precisely for that reason that Congress must act to ensure that managed care plans act responsibly and provide quality coverage.

I hope the Senate will consider this bill carefully and act upon it early next year.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1499

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Health Insurance Consumer's Bill of Rights Act of 1997''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

TITLE I—HEALTH INSURANCE BILL OF RIGHTS

SEC. 101. HEALTH INSURANCE BILL OF RIGHTS.

Title XXVII of the Public Health Service Act is amended—

(1) by redesignating part C as part D, and

(2) by inserting after part B the following new part:

''PART C—HEALTH INSURANCE BILL OF RIGHTS

''SEC. 2770. NOTICE; ADDITIONAL DEFINITIONS.

''(a) NOTICE.—A health insurance issuer under this part shall comply with the notice requirement under section 711(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements of this part as if such section applied to such issuer and such issuer were a group health plan.

''(b) ADDITIONAL DEFINITIONS.—For purposes of this part:

''(1) ENROLLEE.—The term 'enrollee' means an individual who is entitled to benefits under a group health plan or under health insurance coverage.

''(2) HEALTH CARE PROFESSIONAL.—The term 'health care professional' means a physician or other health care practitioner providing health care services.

''(3) HEALTH CARE PROVIDER.—The term 'health care provider' means a clinic, hospital physician organization, preferred provider organization, independent practice association, community service provider, family planning clinic, or other appropriately licensed provider of health care services or supplies.

''(4) MANAGED CARE.—The term 'managed care' means, with respect to a group health plan or health insurance coverage, such a plan or coverage that provides financial incentives for enrollees to obtain benefits through participating health care providers or professionals.

''(5) NONPARTICIPATING.—The term 'nonparticipating' means, with respect to a health care provider or professional and a group health plan or health insurance coverage, such a provider or professional that is not a participating provider or professional with respect to such services.

''(6) PARTICIPATING.—The term 'participating' means, with respect to a health care provider or professional and a group health plan or health insurance coverage offered by a health insurance issuer, such a provider or professional that has entered into an agreement or arrangement with the plan or issuer with respect to the provision of health care services to enrollees under the plan or coverage.

''(7) PRIMARY CARE PRACTITIONER.—The term 'primary care practitioner' means, with respect to a group health plan or health insurance coverage offered by a health insurance issuer, a health care professional (who may be trained in family practice, general practice, internal medicine, obstetrics and

gynecology, or pediatrics and who is practicing within the scope of practice authorized by State law) designated by the plan or issuer to coordinate, supervise, or provide ongoing care to enrollees.

''SUBPART 1—ACCESS TO PRIMARY CARE PHYSICIANS, SPECIALISTS, OUT OF NETWORK PROVIDERS, EMERGENCY ROOM SERVICES, PRESCRIPTION DRUGS

''SEC. 2771. ACCESS TO PERSONNEL AND FACILITIES; ASSURING ADEQUATE CHOICE OF HEALTH CARE PROFESSIONALS.

''A managed care group health plan (and a health insurance issuer offering managed care group health insurance coverage) shall comply with regulations promulgated by the Secretary that ensure that such plans and issuers—

''(1) have a sufficient number and type of primary care practitioners and specialists, throughout the service area to meet the needs of enrollees and to provide meaningful choice;

''(2) maintain a mix of primary care practitioners that is adequate to meet the needs of the enrollees' varied characteristics, including age, gender, race, and health status; and

''(3) include, to the extent possible, a variety of primary care providers (including community health centers, rural health clinics, and family planning clinics).

''SEC. 2772. ACCESS TO SPECIALTY CARE.

''A managed care group health plan (and a health insurance issuer offering managed care group health insurance coverage) shall comply with regulations promulgated by the Secretary that ensure that such plans and issuers provide enrollees with—

''(1) access to specialty care;

''(2) standing referrals to specialists;

''(3) access to nonparticipating providers;

''(4) direct access (without the need for a referral) to health care professionals trained in obstetrics and gynecology; and

''(5) a process that permits a health care provider trained in obstetrics and gynecology to be designated and treated as a primary care practitioner.

''SEC. 2773. ACCESS TO EMERGENCY CARE.

''(a) IN GENERAL.—If a group health plan or health insurance coverage provides any benefits with respect to emergency services (as defined in subsection (b)(1)), the plan or the health insurance issuer offering such coverage shall—

''(1) provide for emergency services without regard to prior authorization or the emergency care provider's contractual relationship with the organization; and

''(2) comply with such guidelines as the Secretary of Health and Human Services may prescribe relating to promoting efficient and timely coordination of appropriate maintenance and post-stabilization care of an enrollee after the enrollee has been determined to be stable under section 1867 of the Social Security Act.

''(b) DEFINITION OF EMERGENCY SERVICES.—In this subsection—

''(1) IN GENERAL.—The term 'emergency services' means, with respect to an enrollee under a plan or coverage, inpatient and outpatient services covered under the plan or coverage that—

''(A) are furnished by a provider that is qualified to furnish such services under the plan or coverage, and

''(B) are needed to evaluate or stabilize an emergency medical condition (as defined in subparagraph (B)).

''(2) EMERGENCY MEDICAL CONDITION BASED ON PRUDENT LAYPERSON.—The term 'emergency medical condition' means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in—

''(A) placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy,

''(B) serious impairment to bodily functions, or

''(C) serious dysfunction of any bodily organ or part.

''SEC. 2774. COVERAGE FOR INDIVIDUALS PARTICIPATING IN APPROVED CLINICAL TRIALS.

''(a) IN GENERAL.—If a group health plan provides benefits, or a health insurance issuer offers health insurance coverage to, a qualified enrollee (as defined in subsection (b)), the plan or issuer—

''(1) may not deny the enrollee participation in the clinical trial referred to in subsection (b)(2);

''(2) subject to subsection (c), may not deny (or limit or impose additional conditions on) the coverage of routine patient costs for items and services furnished in connection with participation in the trial; and

''(3) may not discriminate against the enrollee on the basis of the enrollee's participation in such trial.

''(b) QUALIFIED ENROLLEE DEFINED.—For purposes of subsection (a), the term 'qualified enrollee' means an enrollee who meets the following conditions:

''(1) The enrollee has a life-threatening or serious illness for which no standard treatment is effective.

''(2) The enrollee is eligible to participate in an approved clinical trial with respect to treatment of such illness.

''(3) The enrollee and the referring physician conclude that the enrollee's participation in such trial would be appropriate.

''(4) The enrollee's participation in the trial offers potential for significant clinical benefit for the enrollee.

''(c) PAYMENT.—

''(1) IN GENERAL.—Under this section a plan or issuer shall provide for payment for routine patient costs described in subsection (a)(2) but is not required to pay for costs of items and services that are reasonably expected (as determined by the Secretary) to be paid for by the sponsors of an approved clinical trial.

''(2) PAYMENT RATE.—In the case of covered items and services provided by—

''(A) a participating provider, the payment rate shall be at the agreed upon rate, or

''(B) a nonparticipating provider, the payment rate shall be at the rate the plan or issuer would normally pay for comparable services under subparagraph (A).

''(d) APPROVED CLINICAL TRIAL DEFINED.—In this section, the term 'approved clinical trial' means a clinical research study or clinical investigation approved by the Food and Drug Administration or approved and funded by one or more of the following:

''(1) The National Institutes of Health.

''(2) A cooperative group or center of the National Institutes of Health.

''(3) The Department of Veterans Affairs.

''(4) The Department of Defense.

''SEC. 2775. CONTINUITY OF CARE.

''A managed care group health plan (and a health insurance issuer offering managed care group health insurance coverage) shall comply with regulations promulgated by the Secretary that ensure that such plans and issuers provide continuity of coverage in the case of the terminated coverage where an enrollee is undergoing a course of treatment with the provider at the time of such termination.

''SEC. 2776. PROHIBITION OF INTERFERENCE WITH CERTAIN MEDICAL COMMUNICATIONS.

''(a) IN GENERAL.—The provisions of any contract or agreement, or the operation of any contract or agreement, between a group health plan or health insurance issuer (offering health insurance coverage in connection with a group health plan) and a health professional shall not prohibit or restrict the health professional from engaging in medical communications with his or her patient.

''(b) NULLIFICATION.—Any contract provision or agreement described in subsection (a) shall be null and void.

''(c) MEDICAL COMMUNICATION DEFINED.—For purposes of this section, the term 'medical communication' has the meaning given such term by the Secretary.

''SEC. 2777. ACCESS TO NEEDED PRESCRIPTION DRUGS.

''If a group health plan, or health insurance issuer offers health insurance coverage that, provides benefits with respect to prescription drugs but the coverage limits such benefits to drugs included in a formulary, the plan or issuer shall ensure in accordance with regulations of the Secretary that—

''(1) the nature of the formulary restrictions is fully disclosed to enrollees; and

''(2) exceptions from the formulary restriction are provided when medically necessary or appropriate.

''SUBPART 2—UTILIZATION REVIEW, GRIEVANCE, APPEALS, AND QUALITY IMPROVEMENT

''SEC. 2779. STANDARDS FOR UTILIZATION REVIEW ACTIVITIES, COMPLAINTS, AND APPEALS.

''A group health plan and a health insurance issuer offering health insurance coverage in connection with a group health plan shall comply with standards established by the Secretary relating to its conduct of utilization review activities. Such standards shall include the following:

''(1) A requirement that a plan or issuer develop written policies and criteria concerning utilization review activities.

''(2) A requirement that a plan or issuer provide notice of such policies and criteria and the written notice of adverse determinations.

''(3) A restriction on the use of contingent compensation arrangements with providers.

''(4) A requirement establishing deadlines to ensure timely utilization review determinations.

''(5) The establishment of an adequate process for filing complaints, and appealing decisions, concerning utilization review determinations, including the mandatory use of an outside review panel to make decisions on such appeals.

''(6) A requirement that a plan or issuer that utilizes clinical practice guidelines uniformly apply review criteria that are based on sound scientific principles and the most recent medical evidence.

''SEC. 2780. QUALITY IMPROVEMENT PROGRAM.

''(a) IN GENERAL.—A group health plan and health insurance issuer offering health insurance coverage shall make arrangements for an ongoing quality improvement program for health care services it provides to enrollees. Such a program shall meet standards established by the Secretary, including standards relating to—

''(1) the measurement of health outcomes relevant to all populations, including women;

''(2) evaluation of high risk services;

''(3) monitoring utilization of services;

''(4) ensuring appropriate action to improve quality of care; and

''(5) providing for an independent external review of the program.

''SUBPART 3—NONDISCRIMINATION

''SEC. 2784. NONDISCRIMINATION.

''(a) ENROLLEES.—A group health plan or health insurance issuer offering health insurance coverage (whether or not a managed care plan or coverage) may not discriminate or engage (directly or through contractual arrangements) in any activity, including the selection of service area, that has the effect of discriminating against an individual on the basis of race, culture, national origin, gender, sexual orientation, language, socioeconomic status, age, disability, genetic makeup, health status, payer source, or anticipated need for healthcare services.

''(b) PROVIDERS.—Such a plan or issuer may not discriminate in the selection of members of the health provider or provider network (and in establishing the terms and conditions for membership in the network) of the plan or coverage based on any of the factors described in subsection (a).

''(c) SERVICES.—Such a plan or issuer may not exclude coverage (including procedures and drugs) if the effect is to discriminate in violation of subsection (a) or (b).

''SUBPART 4—CONFIDENTIALITY

''SEC. 2785. MEDICAL RECORDS AND CONFIDENTIALITY.

''A managed care group health plan (and a health insurance issuer offering managed care group health insurance) shall—

''(1) establish written policies and procedures for the handling of medical records and enrollee communications to ensure enrollee confidentiality;

''(2) ensure the confidentiality of specified enrollee information, including, prior medical history, medical record information and claims information, except where disclosure of this information is required by law; and

''(3) not release any individual patient record information, unless such a release is authorized in writing by the enrollee or otherwise required be law.

''SUBPART 5—DISCLOSURES

''SEC. 2786. HEALTH PROSPECTUS; DISCLOSURE OF INFORMATION.

''(a) DISCLOSURE.—Each group health plan, and each health insurance issuer providing health insurance coverage, shall provide to each enrollee at the time of enrollment and on an annual basis, and shall make available to each prospective enrollee upon request—

''(1) a prospectus that relates to the plan or coverage offered and that meets the requirements of subsection (b); and

''(2) additional information described in subsection (c).

''(b) PROSPECTUS.—

''(1) IN GENERAL.—Each prospectus under this subsection for a plan or coverage—

''(A) shall contain the information described in paragraphs (2) through (4) concerning the plan or coverage,

''(B) shall contain such additional information as the Secretary deems appropriate, and

''(C) shall be no longer than 3 pages in length and in a format specified by the Secretary, for purposes of comparison by prospective enrollees.

''(2) QUALITATIVE INFORMATION.—The information described in this paragraph is a summary of the quality assessment data on the plan or coverage. The data shall—

''(A) be the similar to the types of data as are collected for managed care plans under title XVIII of the Social Security Act, as determined by the Secretary and taking into account differences between the populations covered under such title and the populations covered under this title;

''(B) be collected by independent, auditing agencies;

''(C) include—

''(i) a description of the types of methodologies (including capitation, financial incentive or bonuses, fee-for-service, salary, and withholds) used by the plan or issuer to reimburse physicians, including the proportions of physicians who have each of these types of arrangements; and

''(ii) cost-sharing requirements for enrollees.

The information under subparagraph (C) shall include, upon request, information on the reimbursement methodology used by the plan or issuer or medical groups for individual physicians, but do not require the disclosure of specific reimbursement rates.

''(3) QUANTITATIVE INFORMATION.—The information described in this paragraph is measures of performance of the plan or issuer (in relation to coverage offered) with respect to each of the following and such other salient data as the Secretary may specify:

''(A) The ratio of physicians to enrollees, including the ratio of physicians who are obstetrician/gynecologists to adult, female enrollees.

''(B) The ratio of specialists to enrollees.

''(C) The incentive structure used for payment of primary care physicians and specialists.

''(D) Patient outcomes for procedures, including procedures specific to female enrollees.

''(E) The number of grievances filed under the plan or coverage.

''(F) The number of requests for procedures for which utilization review board review or approval is required and the number (and percentage) of such requests that are denied.

''(G) The number of appeals filed from denial of such requests and the number (and percentage) of such appeals that are approved, such numbers and percentages broken down by gender of the enrollee involved.

''(H) Disenrollment data.

''(4) DESCRIPTION OF BENEFITS.—The information described in this paragraph is a description of the benefits provided under the plan or coverage, as well as explicit exclusions, including a description of the following:

''(A) Coverage policy with respect to coverage for female-specific benefits, including screening mammography, hormone replacement therapy, bone density testing, osteoporosis screening, maternity care, and reconstructive surgery following a mastectomy.

''(B) The costs of copayments for treatments, including any exceptions.

''(c) ADDITIONAL INFORMATION.—The additional information described in this subsection is information about each of the following:

''(1) The plan's or issuer's structure and provider network, including the names and credentials of physicians in the network.

''(2) Coverage provided and excluded, including out-of-area coverage.

''(3) Procedures for utilization management.

''(4) Procedures for determining coverage for investigational or experimental treatments as well as definitions for coverage terms.

''(5) Any restrictive formularies or prior approval requirements for obtaining prescription drugs, including, upon request, information on whether or not specific drugs are covered.

''(6) Use of voluntary or mandatory arbitration.

''(7) Procedures for receiving emergency care and out-of-network services when those services are not available in the network and information on the coverage of emergency services, including—

''(A) the appropriate use of emergency services, including use of the 911 telephone system or its local equivalent in emergency situations and an explanation of what constitutes an emergency situation;

''(B) the process and procedures for obtaining emergency services; and

''(C) the locations of (i) emergency departments, and (ii) other settings, in which physicians and hospitals provide emergency services and post-stabilization care.

''(8) How to contact agencies that regulate the plan or issuer.

''(9) How to contact consumer assistance agencies, such as ombudsmen programs.

''(10) How to obtain covered services.

''(11) How to receive preventive health services and health education.

''(12) How to select providers and obtain referrals.

''(13) How to appeal health plan decisions and file grievances.

''(d) STATE AUTHORITY TO REQUIRE ADDITIONAL INFORMATION.—

''(1) IN GENERAL.—Subject to paragraph (2), this section shall not be construed as preventing a State from requiring health insurance issuers, in relation to their offering of health insurance coverage, to disclose separately information (including comparative ratings of health insurance coverage) in addition to the information required to be disclosed under this section.

''(2) CONTINUED PREEMPTION WITH RESPECT TO GROUP HEALTH PLANS.—Nothing in this part shall be construed to affect or modify the provisions of section 514 with respect to group health plans.

''SUBPART 6—PROMOTING GOOD MEDICAL PRACTICE AND PROTECTING THE DOCTOR-PATIENT RELATIONSHIP

''SEC. 2787. PROMOTING GOOD MEDICAL PRACTICE.

''(a) PROHIBITING ARBITRARY LIMITATIONS OR CONDITIONS FOR THE PROVISION OF SERVICES.—A group health plan and a health insurance issuer, in connection with the provision of health insurance coverage, may not impose limits on the manner in which particular services are delivered if the services are medically necessary or appropriate to the extent that such procedure or treatment is otherwise a covered benefit.

''(b) CONSTRUCTION.—Subsection (a) shall not be construed as requiring coverage of particular services the coverage of which is otherwise not covered under the terms of the coverage.''.

TITLE II—APPLICATION OF BILL OF RIGHTS UNDER VARIOUS LAWS

SEC. 201. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.

(a) APPLICATION TO GROUP HEALTH INSURANCE COVERAGE.—Subpart 2 of part A of title XXVII of the Public Health Service Act is amended by adding at the end the following new section:

''SEC. 2706. MANAGED CARE REQUIREMENTS.

''Each health insurance issuer shall comply with the applicable requirements under part C with respect to group health insurance coverage it offers.''.

(b) APPLICATION TO INDIVIDUAL HEALTH INSURANCE COVERAGE.—Part B of title XXVII of the Public Health Service Act is amended by inserting after section 2751 the following new section:

''SEC. 2752. MANAGED CARE REQUIREMENTS.

''Each health insurance issuer shall comply with the applicable requirements under part C with respect to individual health insurance coverage it offers, in the same manner as such requirements apply to group health insurance coverage.''.

(c) MODIFICATION OF PREEMPTION STANDARDS.—

(1) GROUP HEALTH INSURANCE COVERAGE.—Section 2723 of such Act (42 U.S.C. 300gg–23) is amended—

(A) in subsection (a)(1), by striking ''subsection (b)'' and inserting ''subsections (b) and (c)'';

(B) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(C) by inserting after subsection (b) the following new subsection:

''(c) SPECIAL RULES IN CASE OF MANAGED CARE REQUIREMENTS.—Subject to subsection (a)(2), the provisions of section 2706 and part C, and part D insofar as it applies to section 2706 or part C, shall not prevent a State from establishing requirements relating to the subject matter of such provisions so long as such requirements are at least as stringent on health insurance issuers as the requirements imposed under such provisions.''.

(2) INDIVIDUAL HEALTH INSURANCE COVERAGE.—Section 2762 of such Act (42 U.S.C. 300gg–62), as added by section 605(b)(3)(B) of Public Law 104–204, is amended—

(A) in subsection (a), by striking ''subsection (b), nothing in this part'' and inserting ''subsections (b) and (c)'', and

(B) by adding at the end the following new subsection:

''(c) SPECIAL RULES IN CASE OF MANAGED CARE REQUIREMENTS.—Subject to subsection (b), the provisions of section 2752 and part C, and part D insofar as it applies to section 2752 or part C, shall not prevent a State from establishing requirements relating to the subject matter of such provisions so long as such requirements are at least as stringent on health insurance issuers as the requirements imposed under such section.''.

(d) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 2723(a)(1) of such Act (42 U.S.C. 300gg–23(a)(1)) is amended by striking ''part C'' and inserting ''parts C and D''.

(2) Section 2762(b)(1) of such Act (42 U.S.C. 300gg–62(b)(1)) is amended by striking ''part C'' and inserting ''part D''.

(e) ASSURING COORDINATION.—Section 104(1) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191) is amended by striking ''under this subtitle (and the amendments made by this subtitle and section 401)'' and inserting ''title XXVII of the Public Health Service Act, under part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, and chapter 100 of the Internal Revenue Code of 1986''.

SEC. 202. MANAGED CARE REQUIREMENTS UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new section:

''SEC. 713. MANAGED CARE REQUIREMENTS.

''(a) IN GENERAL.—Subject to subsection (b), a group health plan (and a health insurance issuer offering group health insurance coverage in connection with such a plan) shall comply with the applicable requirements of part C of title XXVII of the Public Health Service Act.

''(b) REFERENCES IN APPLICATION.—In applying subsection (a) under this part, any reference in such part C—

''(1) to a health insurance issuer and health insurance coverage offered by such an issuer is deemed to include a reference to a group health plan and coverage under such plan, respectively;

''(2) to the Secretary is deemed a reference to the Secretary of Labor;

''(3) to an applicable State authority is deemed a reference to the Secretary of Labor; and

''(4) to an enrollee with respect to health insurance coverage is deemed to include a reference to a participant or beneficiary with respect to a group health plan.''.

(b) MODIFICATION OF PREEMPTION STANDARDS.—Section 731 of such Act (42 U.S.C. 1191) is amended—

(1) in subsection (a)(1), by striking ''subsection (b)'' and inserting ''subsections (b) and (c)'';

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(3) by inserting after subsection (b) the following new subsection:

''(c) SPECIAL RULES IN CASE OF MANAGED CARE REQUIREMENTS.—Subject to subsection (a)(2), the provisions of section 713 and part C of title XXVII of the Public Health Service Act, and subpart C insofar as it applies to section 713 or such part, shall not be construed to preempt any State law, or the enactment or implementation of such a State law, that provides protections for individuals that are equivalent to or stricter than the protections provided under such provisions.''.

(c) CONFORMING AMENDMENTS.—(1) Section 732(a) of such Act (29 U.S.C. 1185(a)) is amended by striking ''section 711'' and inserting ''sections 711 and 713''.

(2) The table of contents in section 1 of such Act is amended by inserting after the item relating to section 712 the following new item:

''Sec. 713. Managed care requirements.''.

SEC. 203. MANAGED CARE REQUIREMENTS UNDER THE INTERNAL REVENUE CODE OF 1986.

(a) IN GENERAL.—Subchapter B of part B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new section:

''SEC. 9813. MANAGED CARE REQUIREMENTS.

''(a) IN GENERAL.—Subject to subsection (b), a group health plan shall comply with the applicable requirements of part C of title XXVII of the Public Health Service Act.

''(b) REFERENCES IN APPLICATION.—In applying subsection (a) under this subchapter, any reference in such part C—

''(1) to the Secretary is deemed a reference to the Secretary of the Treasury; and

''(2) to an applicable State authority is deemed a reference to the Secretary.''.

(b) CLERICAL AMENDMENT.—The table of sections in subchapter B of chapter 100 of such Code is amended by inserting after the item relating to section 9812 the following new item:

''Sec. 9813. Managed care requirements.''.

SEC. 204. MANAGED CARE REQUIREMENTS UNDER MEDICARE, MEDICAID, AND THE FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM (FEHBP).

(a) MEDICARE.—Section 1852 of the Social Security Act (42 U.S.C. 1395w–22), as inserted by section 4001 of the Balanced Budget Act of 1997 (Public Law 101–33), is amended by adding at the end the following new subsection:

''(l) MANAGED CARE REQUIREMENTS.—Each Medicare+Choice organization that offers a Medicare+Choice plan described in section 1851(a)(1)(A) shall comply with the applicable requirements of part C of title XXVII of the Public Health Service Act in the same manner as such requirements apply with respect to health insurance coverage offered by a health insurance issuer, except to the extent such requirements are less protective of enrollees than the requirements established under this part.''.

(b) MEDICAID.—Section 1932(b)(8) of the Social Security Act, as added by section 4704(a) of the Balanced Budget Act of 1997, is amended—

(1) by striking ''AND MENTAL HEALTH'' and inserting '', MENTAL HEALTH, AND MANAGED CARE'',

(2) by inserting ''and of part C'' after ''of part A'', and

(3) by inserting before the period at the end the following: '', except to the extent such requirements are less protective of enrollees than the requirements established under this title''.

(c) FEDERAL EMPLOYEES' HEALTH BENEFITS PROGRAM (FEHBP).—Chapter 89 of title 5, United States Code, is amended—

(1) by inserting after the item relating to section 8905a the following new section:

''§ 8905b. Application of managed care requirements

''Each health benefit plan offered under this chapter shall comply with the applicable requirements of part C of title XXVII of the Public Health Service Act in the same manner as such requirements apply with respect to health insurance coverage offered by a health insurance issuer, except to the extent such requirements are less protective of enrollees than the requirements established under this chapter.''; and

(2) in the table of sections, by inserting the following item after the item relating to section 8905a:

''8905b. Application of managed care requirements.''.

SEC. 205. EFFECTIVE DATES.

(a) GENERAL EFFECTIVE DATE FOR GROUP HEALTH PLANS.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by section 101, subsections (a), (c)(1), and (d) of section 201, and sections 203 and 204 shall apply with respect to group health insurance coverage for group health plan years beginning on or after July 1, 1998 (in this section referred to as the ''general effective date'') and also shall apply to portions of plan years occurring on and after January 1, 1999.

(2) TREATMENT OF GROUP HEALTH PLANS MAINTAINED PURSUANT TO CERTAIN COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan, or group health insurance coverage provided pursuant to a group health plan, maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of enactment of this Act, the amendments described in paragraph (1) shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of enactment of this Act), or

(B) the general effective date.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by such amendments shall not be treated as a termination of such collective bargaining agreement.

(b) GENERAL EFFECTIVE DATE FOR HEALTH INSURANCE COVERAGE.—The amendments made by section 101 and subsections (b), (c)(2), and (d) of section 201 shall apply with respect to individual health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after the general effective date.

(c) EFFECTIVE DATE FOR COORDINATION.—The amendment made by section 201(e) shall take effect on the date of the enactment of this Act.

(d) FEDERAL PROGRAMS.—The amendments made by section 204 shall take effect on January 1, 1999.

By Mr. AKAKA:

S. 1500. A bill to amend the Hawaii Tropical Forest Recovery Act to establish voluntary standards for certifying forest products cultivated, harvested,

and processed in tropical environments in Hawaii and to grant a certification for Hawaii tropical forest products that meet the voluntary standards, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE HAWAII TROPICAL FOREST PRODUCTS CERTIFICATION ACT

Mr. AKAKA. Madam President, today I am introducing legislation to establish voluntary standards for certifying tropical forest products grown in Hawaii. Senator INOUYE has joined me in cosponsoring this measure.

Agriculture has long been the backbone of the economy of rural Hawaii. Recently, however, the decline of sugarcane has caused an upheaval for many of our rural communities. In the past 10 years, 21 sugarcane plantations have gone out of business and the State has lost 115,000 acres of sugarcane production.

For more than 160 years, sugar provided jobs and a special way of life for communities throughout the State. Cane is still king on Maui and parts of Kauai, but elsewhere it has disappeared from the agricultural map. Our great challenge is to develop new opportunities that keep Hawaii green and economically productive for at least as long—and hopefully longer—than our relationship with sugar.

For many landowners, the future of rural Hawaii is in forestry. But what will forestry in Hawaii look like 10, 20, or 50 years from now? Many people have strong feelings about how to answer this question.

Sustainability is the emerging idea in forest development. This means practicing stewardship that integrates the growth, nurturing, and harvesting of trees with the conservation of soil, air, water, and wildlife. Sustainable forests are managed to serve the needs of the present generation without compromising the needs of future generations.

In Hawaii, the stewardship ethic is very strong, especially within the forestry community. Hawaii's tropical forests are home to some of the richest biological diversity on the planet, and our forest managers understand the importance of preserving our living heritage. But in many countries, stewardship and responsible forest development is weak or nonexistent.

Around the globe, forests are disappearing at an unprecedented rate, and nowhere is this problem more severe than in the tropics. More than half of the world's tropical rain forests have been consumed, degraded, or destroyed in this century.

Because of the attention being given to forest degradation, consumers are asking questions about the source of the wood demand, and foresters to supply, wood products from well-managed forests.

As the demand for sustainable forest products has increased, criteria for sustainable forestry have been formalized. The result is a world-wide movement to verify that sustainable forestry claims are genuine. This process is known as certification.

In recent years, the Hawaii forestry industry has closely monitored the certification movement. The bill I am introducing today will prompt an important dialogue on certification. I am inviting all stakeholders in this issue—Hawaii's forest industry, landowners, conservation experts, and affected communities—to engage in a free and open exchange about forest certification.

What are the benefits of certification? For consumers, certification is a way of ensuring that forest products they purchase do not contribute to forest degradation. Independent verification of forestry practices is the Good Housekeeping Seal of Approval telling them that sustainable standards are being met.

To landowners, certification is a way of ensuring that their careful management is rewarded in the marketplace. A certification label may result in a premium for your products, better market access, and in some cases, more secure supply agreements. The best way for the Hawaii forest industry to increase the value of their resource may be to sell certified tropical wood products into a world market that recognizes the abuse that tropical forests have suffered—and is willing to pay more for a tropical product that has received proper certification.

Just how widespread is certification today? Forest certification is big business. Certification is practiced in 25 countries. European and North American buyers groups are committed to wood products certification. Eleven nations, including Germany and France, are represented in the European buyers group.

Certification is voluntary, not mandatory, and my bill reflects this fact. Over time, however, landowners who do not employ sustainable practices and do not seek certification may find it more difficult to market their timber.

My bill will establish standards certifying that Hawaii forest products are cultivated, harvested, and processed in a sustainable manner. Although forestry certification standards are high, certification will not require perfection. Like agriculture, forestry is subject to the forces of nature, and nature is often unpredictable.

For certification to become successful in Hawaii, I believe that a bottom up rather than top down approach to consensus-building makes the most sense. With this in mind, in January, 1998, I will convene a meeting in Hawaii to further the dialog about forest certification and the bill I introduced today.

Certification can take root in Hawaii without action by Congress. However, my bill can jump start the dialog and provide a format for discussion. I will be the first one to cheer if certification becomes a reality with, or without, legislation by Congress.

By Mr. JEFFORDS:

S. 1501. A bill to amend the Employee Retirement Income Security Act of 1974 to improve protection for workers in multiemployer pension plans; to the Committee on Labor and Human Resources.

THE WORKERS' PENSION PROTECTION ACT OF 1997

Mr. JEFFORDS. Mr. President, I am today introducing the Workers' Pension Protection Act. This legislation will level the playing field for millions of American workers who currently participate in defined benefit multiemployer pension plans.

As I am certain many of my colleagues are aware, there is a difference between multiemployer and single-employer pension plans. Multiemployer plans are maintained by a specific union, and supported by the various employers that union has organized, whereas single-employer plans are established by one company for its own employees. Thus, the Central States Teamsters pension fund covers individuals who work for employers the Teamsters have organized in the Midwestern United States. By contrast, General Electric has its a single-employer plan, or plans, that it established for its own employees.

This bill is only concerned with multiemployer pension plans. It protects workers' benefits by making sure that multiemployer plans are funded so that benefits promised today will be available when workers retire in the future. Many of this country's multiemployer pension plans are underfunded by billions of dollars. It is true that a plan can be underfunded by billions of dollars but the relationship of assets to liabilities can still be relatively high. However, we are looking at plans that are not only underfunded by large amounts, but also where liabilities seriously outstrip assets.

This legislation both increases funding and reporting requirements on multiemployer plans, so that we know when plans are becoming riskier, and improves protections and benefits. American workers rely upon their pensions to support them through their twilight years. Unfortunately pension plans are not infallible and too often, the American workers discover that their plan is bankrupt and that all pension payments are now in the hands of the Pension Benefit Guaranty Corporation [PBGC], the Federal agency charged with insuring defined benefit pension plans. What these workers may not realize is that under a single-employer plan, up to $33,132 per year is protected by the PBGC's pension insurance, but under the multiemployer pension insurance system, they can only receive $5,850. My legislation will not completely eliminate this unfairness, but it will slightly more than double the amount payable by the PBGC, by increasing benefits from $5,850 to $12,780. This change in the guaranty benefit amount would be the first increase to those benefits since the multiemployer program was enacted in 1980.

Next, this bill will require plans to fund their current pension promises before making new ones. Pension plan trustees would be unable to grant benefit increases if a plan is less than 95 percent funded. This provision is needed to keep underfunded plans from going deeper in the red if collective bargaining ignores the underfunding problem.

Third, this legislation will require multiemployer pension plans to use single, identified interest rate and mortality table assumptions in all calculations. As in the single-employer pension plan reform legislation of 1994, the interest rates and mortality tables must be standardized and must conform to the most recent data available. With this change, plans may not use one set of numbers when reporting the level of funding in their plan to the PBGC, and another set of numbers when determining liability associated with a withdrawal from the plan. That amounts to manipulating interest rates to game the system. We require single-employer pension plans to use a specific interest rate and a mortality table. I believe it should apply to multiemployer plans, as well.

Fourth, the bill will require that plan trustees notify participants, annually and in plain English, of how well or poorly funded their plans are. Once and for all, multiemployer pension plan participants and beneficiaries will have a chance to learn how secure—or insecure—their retirement benefits are. It is one thing to tell a plan participant what his or her expected benefit will be upon retirement. It is quite another to let a participant know that their pension plan could have 45 percent more in liabilities than it has in assets, or that it may have accumulated $5 billion in underfunding.

The PBGC has told us that notification to participants of plan funding has worked well for single-employer plans. Since it has been a success for the single-employer insurance system, we should extend the same protections to participants in multiemployer plans. With a better understanding of the worth of their benefits, workers can make informed decisions about their retirement needs. I think such notification is a vitally important participant protection for multiemployer pension plan participants.

Finally, the bill will increase premiums imposed by the PBGC upon sponsors of multiemployer pension plans. Currently, premiums are $2.60 per participant but they have not been increased since the multiemployer guaranty program was enacted in 1980. By contrast, the single employer premium has been increased by Congress eight times since ERISA was passed in 1974. The minimum premium for fully funded single-employer plans is now $19 per participant, but some underfunded plans are charged hundreds of dollars per participant for PBGC premiums. If we are going to raise multiemployer benefits, it is also time to raise multiemployer premiums. Over a 3-year period, my bill will double premiums, increasing them to $5.20 per participant.

Mr. President, I realize that it is the end of the session. I am introducing this measure now in order to permit review and comment by interested parties in advance of hearings I will be holding on this issue next year. This bill takes modest, but overdue steps to protect participants of multiemployer pension plans. I hope that those concerned with the safety and security of, and equity in, multiemployer pension plans will not hesitate to step forward to be heard. There are slightly more than 1,800 multiemployer pension plans in this Nation providing benefits to approximately 8.7 million individuals. This bill protects those workers and retirees—and they need and deserve our oversight. I encourage my colleagues in the Senate to join me in sponsoring this important piece of legislation.

By Mr. WELLSTONE:

S. 1503. A bill to protect the voting rights of homeless citizens; to the Committee on Rules and Administration.

THE VOTING RIGHTS OF HOMELESS CITIZENS ACT OF 1997

Mr. WELLSTONE. Mr. President, I rise today to introduce the Voting Rights of Homeless Citizens Act of 1997. I am proud to stand alongside the distinguished House sponsor of this bill, Representative JOHN LEWIS.

Mr. President, over the course of the last century, Congress has systematically removed the major obstacles that once prevented many of our citizens from voting. Not too long ago, only land-owning white men had the privilege of participating in our democracy. Women and minorities were prohibited from casting the ballot. More recently, people had to pay a poll tax or take a test in order to qualify to vote.

Before the civil rights movement, there were areas in the southern part of this country where the vast majority of the population was black, but there wasn't a single registered black voter. In 1964, three young men gave their lives while working to register people to vote in rural Mississippi. Many people over the course of our history have sacrificed their lives in order to expand voting rights for all Americans.

In 1964 President Lyndon Johnson proposed that we ''eliminate every remaining obstacle to the right and opportunity to vote.'' Eight months later, this Congress passed the Voting Rights Act of 1965, making it possible for millions of Americans to participate in the political process for the first time.

Our Nation has made even more progress since then. The motor voter law made voter registration more accessible to working people. But our historic strides have not taken us far enough. The time is long overdue to ensure that every American has the opportunity to exercise this fundamental right. It is reprehensible that there are still American adults who are unable to partake of the most important right of citizenry.

The purpose of this legislation is to give the power to vote to homeless citizens of this country. The bill would remove the legal and administrative barriers that inhibit them from exercising this right. No one should be excluded from registering to vote simply because they do not have an address. But in many States, the homeless are left out and left behind. This is wrong. This is against the grain of this great nation.

I ask my colleagues to join me in opening the political process to every American—even those without a home. I urge my colleagues to join me by cosponsoring and supporting passage of the Voting Rights of Homeless Citizens Act of 1997.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S.1503

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Voting Rights of Homeless Citizens Act of 1997'.

SEC. 2. VOTING RIGHTS OF HOMELESS CITIZENS.

No voting qualification or prerequisite to voting, or standard, practice, or procedure shall be imposed or applied by any State or political subdivision to deny or abridge the right of any citizen of the United States to vote because that citizen resides at or in a nontraditional abode.

SEC. 3. ENFORCEMENT.

The Attorney General may commence in the name of the United States a civil action (including an action against a State or political subdivision) or an aggrieved citizen may institute a proceeding under this Act, for injunctive relief against a violation of section 2.

SEC. 4. RELATIONSHIP TO VOTING RIGHTS ACT OF 1965.

This Act shall not be construed to impair any right guaranteed by the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.).

SEC. 5. DEFINITIONS.

As used in this Act, the term 'nontraditional abode' includes—

(1) a supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill); and

(2) a public or private place not designated for, or ordinarily used as, regular sleeping accommodation for human beings.

SEC. 6. EFFECTIVE DATE.

This Act applies with respect to elections taking place after December 31, 1997.

By Mr. GRAHAM (for himself, Mr. MACK, Mr. KENNEDY, Mr. ABRAHAM, and Ms. MOSELEY-BRAUN):

S. 1504. A bill to adjust the immigration status of certain Haitian nationals who where provided refuge in the United States; to the Committee on the Judiciary.

THE HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT OF 1997

Mr. GRAHAM. Mr. President, I commend my colleagues on reaching an

agreement on what has been a very long and difficult negotiation relative to Central American and other immigrants. I note that we have in the Chamber at this time two of the Members of the House of Representatives who have been most active in achieving this result that is close to being reality, Congresswoman ILEANA ROS-LEHTINEN and Congressman LINCOLN DIAZ-BALART. I extend my special thanks to them and congratulations on the success of their hard work.

Many months ago, these two fine Members of the House of Representatives, and others, including Senator MACK, Senator SPENCER ABRAHAM, and Senator KENNEDY, became interested in legislation that would provide justice and fairness for individuals who, due to duress, extreme hardship and political strife in their native countries, had been welcomed into our Nation by President Reagan and President Bush. I was proud to be part of this effort.

The agreement reached with our distinguished colleagues covers not only Central Americans, but also other groups who have struggled against oppression. While I strongly believe that this agreement is positive and is in the American tradition of fair play, it is an incomplete resolution. It is incomplete because there is another relatively small group of persons who have the same characteristics as those who are being recognized for whom legislation is being passed today as part of the District of Columbia appropriations bill. That group is Haitians.

There are 11,000 Haitians who, because of their credible asylum claims, were flown to the United States by our Government during the early 1990's. These were men, women and children, Mr. President, who had left Haiti because of the oppressive circumstances there.

Mr. President, this group of approximately 11,000 Haitians, who because of credible asylum claims were allowed to enter the United States in the early 1990s, were part of a much larger group of over 40,000 Haitians who had been detained at sea and temporarily were in a refuge status at our Guantanamo naval station.

These were the 11,000 of that larger group who were found, based on screenings administered by the Immigration Naturalization Service, to have a credible claim of persecution should they be returned to Haiti. The balance of those who could not meet that standard were in fact repatriated to Haiti.

There is a second group of similar size and significant overlap in terms of the individuals who are part of the asylum backlog. These are those who have had pending asylum cases since 1995.

Mr. President, I am pleased to be joined in introducing this legislation today which is entitled the Haitian Refugee Immigration Fairness Act of 1997, with my colleague Senator MACK, Senator KENNEDY, Senator ABRAHAM, and Senator CAROL MOSELEY-BRAUN.

Mr. President, fairness demands that we include this group in our legislation. First, this is a relatively small group. The two groups together, the Guantanamo asylees and those who have a pending asylum case combined, represent approximately 15,000 to 16,000 individuals. This, in relationship to those who we are providing essentially the same status to today, is a relatively small number.

Second, this group has been extensively screened. As I indicated, the Guantanamo asylees represent approximately one out of four of those persons who were, at one time, at the Guantanamo Naval Base and who were found to have a credible legitimate fear of persecution in Haiti.

I might say, Mr. President, as one who visited Haiti several times during this very tense period in the late 1980s and early 1990s, the level of human rights abuses, the savagery, the violence were extreme. And these persons who established if they had been returned to Haiti at that time, that they would have been significantly at risk, they were at risk in a very legitimately violent and hostile environment.

Deportations of this group, Mr. President, have already begun. Asylum officers have begun to send back members of the Haitian community to Haiti. And so there is a sense of urgency of dealing with this legislation before any additional injustices are committed.

And finally, the Guantanamo Haitians have established families in the United States. Many have had children born here who are United States citizens. They have opened businesses. They have built homes. They have strengthened our community here in the United States. They contribute to the diversity, the racial and social harmony, the positive traits of our increasingly multicultural Nation.

Mr. President, I would hope someday to have the opportunity to invite you to join me at Miami Dade Community College, which happens to be the largest community college in the Nation based on enrollment. It is inspiring to go to that campus, one of their several campuses, and see the number of young Haitian men and women who are living the American dream of hard work and education and advancing themselves so that they can better serve the interests of their families and our Nation.

This is a quality group of people who have made and will make significant contributions to our Nation.

They are making a contribution in many ways today. As an example, we have in Haiti a large number of Americans of Haitian heritage who are currently serving as mentors to the newly established police force in Haiti. They are helping to make an organization which did not exist a few years ago because there was no police force, all police activities were done through the military and often done in a very aggressive manner.

We are attempting to build a new institution to provide for security in Haiti. A key element of that are the large numbers of Americans of Haitian background who are assisting in that important effort within their former country.

That is just one dramatic example of the contributions which this community is making to their new home in America.

Mr. President, I ask my colleagues today to continue the fight for justice and fairness. We have taken a significant step in that effort tonight with the passage of the District of Columbia appropriations bill, which seems to be an odd place for such an important immigration bill to be lodged, but it is placed there.

This legislation will continue that effort by applying a similar standard of fair treatment to this important population of Haitians within our Nation.

I send to the desk the legislation and ask for its referral.

The PRESIDING OFFICER. It will be received and appropriately referred.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1504

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Haitian Refugee Immigration Fairness Act of 1997''.

SEC. 2. ADJUSTMENT OF STATUS OF CERTAIN HAITIAN NATIONALS.

(a) ADJUSTMENT OF STATUS.—

(1) IN GENERAL.—Notwithstanding section 245(c) of the Immigration and Nationality Act, the status of any alien described in subsection (b) shall be adjusted by the Attorney General to that of an alien lawfully admitted for permanent residence, if the alien—

(A) applies for such adjustment before April 1, 2000; and

(B) is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence, except in determining such admissibility the grounds for inadmissibility specified in paragraphs (4), (5), (6)(A), and (7)(A) of section 212(a) of the Immigration and Nationality Act shall not apply.

(2) RELATIONSHIP OF APPLICATION TO CERTAIN ORDERS.—An alien present in the United States who has been ordered excluded, deported, removed, or ordered to depart voluntarily from the United States under any provision of the Immigration and Nationality Act may, notwithstanding such order, apply for adjustment of status under paragraph (1). Such an alien may not be required, as a condition on submitting or granting such application, to file a motion to reopen, reconsider, or vacate such order. If the Attorney General grants the application, the Attorney General shall cancel the order. If the Attorney General renders a final administrative decision to deny the application, the order shall be effective and enforceable to the same extent as if the application had not been made.

(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—The benefits provided by subsection (a) shall apply to any alien who is a national of Haiti—

(1) who filed for asylum before December 31, 1995, or was paroled into the United

States prior to December 31, 1995, after having been identified as having a credible fear of persecution or paroled for emergent reasons or reasons deemed strictly in the public interest, and

(2) has been physically present in the United States for at least 1 year and is physically present in the United States on the date the application for such adjustment is filed, except an alien shall not be considered to have failed to maintain continuous physical presence by reason of an absence, or absences, from the United States for any periods in the aggregate not exceeding 180 days.

(c) STAY OF REMOVAL.—

(1) IN GENERAL.—The Attorney General shall provide by regulation for an alien subject to a final order of deportation or removal or exclusion to seek a stay of such order based on the filing of an application under subsection (a).

(2) DURING CERTAIN PROCEEDINGS.—Notwithstanding any provision of the Immigration and Nationality Act, the Attorney General shall not order any alien to be removed from the United States, if the alien is in exclusion, deportation, or removal proceedings under any provision of such Act and raises as a defense to such an order the eligibility of the alien to apply for adjustment of status under subsection (a), except where the Attorney General has rendered a final administrative determination to deny the application.

(3) WORK AUTHORIZATION.—The Attorney General may authorize an alien who has applied for adjustment of status under subsection (a) to engage in employment in the United States during the pendency of such application and may provide the alien with an ''employment authorized'' endorsement or other appropriate document signifying authorization of employment, except that if such application is pending for a period exceeding 180 days, and has not been denied, the Attorney General shall authorize such employment.

(d) ADJUSTMENT OF STATUS FOR SPOUSES AND CHILDREN.—

(1) IN GENERAL.—Notwithstanding section 245(c) of the Immigration and Nationality Act, the status of an alien shall be adjusted by the Attorney General to that of an alien lawfully admitted for permanent residence, if—

(A) the alien is a national of Haiti;

(B) the alien is the spouse, child, or unmarried son or daughter, of an alien whose status is adjusted to that of an alien lawfully admitted for permanent residence under subsection (a), except that in the case of such an unmarried son or daughter, the son or daughter shall be required to establish that they have been physically present in the United States for at least 1 year and is physically present in the United States on the date the application for such adjustment is filed.

(C) the alien applies for such adjustment and is physically present in the United States on the date the application is filed; and

(D) the alien is otherwise eligible to receive an immigration visa and is otherwise admissible to the United States for permanent residence, except in determining such admissibility the grounds for exclusion specified in paragraphs (4), (5), (6)(A), and (7)(A) of section 212(a) of the Immigration and Nationality Act shall not apply.

(2) PROOF OF CONTINUOUS PRESENCE.—For purposes of establishing the period of continuous physical presence referred to in paragraph (1)(B), an alien shall not be considered to have failed to maintain continuous physical presence by reason of an absence, or absences, from the United States for any periods in aggregate not exceeding 180 days.

(e) AVAILABILITY OF ADMINISTRATIVE REVIEW.—The Attorney General shall provide to applicants for adjustment of status under subsection (a) the same right to, and procedures for, administrative review as are provided to—

(1) applicants for adjustment of status under section 245 of the Immigration and Nationality Act; or

(2) aliens subject to removal proceedings under section 240 of such Act.

(f) LIMITATION ON JUDICIAL REVIEW.—A determination by the Attorney General as to whether the status of any alien should be adjusted under this section is final and shall not be subject to review by any court.

(g) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—When an alien is granted the status of having been lawfully admitted for permanent resident pursuant to this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under any provision of the Immigration and Nationality Act.

(h) APPLICATION OF IMMIGRATION AND NATIONALITY ACT PROVISIONS.—Except as otherwise specifically provided in this Act, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section. Nothing contained in this Act shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of such Act or any other law relating to immigration, nationality, or naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude the alien from seeking such status under any other provision of law for which the alien may be eligible.

Mr. KENNEDY. Mr. President, it is a privilege to join Senator GRAHAM, Senator MACK, Senator ABRAHAM, and Senator MOSELEY-BRAUN in introducing legislation providing permanent residence to Haitian refugees.

The Senate has now adopted legislation to enable Nicaraguan and Cuban refugees to remain permanently in the United States as immigrants, and to enable Salvadorans and Guatemalans to seek similar relief on a case-by-case basis.

Haitian refugees deserve no less.

These families fled violence, torture, murder and other atrocities in Haiti. The Bush administration and the Clinton administration found that the vast majority of these refugees fled from Haiti because of a legitimate fear of persecution.

These deserving Haitian refugees have resettled in many different States. They brought with them an unparalleled love of freedom, and a strong commitment to our democracy. They honor the opportunity that America offers.

They were welcomed by churches and neighborhood groups, who have helped them rebuild their lives in communities across America. Today, they are contributing and valued members of our society.

Immigration relief for Haitian refugees should have been included in the legislation to assist the refugees from Central America.

President Clinton wrote to Speaker GINGRICH to emphasize the importance of comparable relief for Haitian refugee families at a time when Congress was acting on relief for other refugees. Haitian refugees deserve the same immigration opportunities that the Republican leadership is proposing for refugees from Central America.

But the Republican leadership in Congress said no. They even rejected our efforts at least to provide immediate relief from deportation for Haitian families.

While the Republicans said no to these refugees, I understand that the Clinton administration will be taking steps to assure these Haitian families that they will be protected from deportation while Congress considers legislation in the coming months to allow the families to seek permanent residence here.

And I commend Senator MOSELEY-BRAUN for her extraordinary leadership in working with the administration to achieve this important result, as well as Representative CARRIE MEEK for her tireless efforts for Haitian refugees.

The legislation we are introducing will provide the fair relief that is greatly needed. It is a matter of simple justice.

It should be adopted as soon as possible and I regret it was not part of the measure enacted today.

Ms. MOSELEY-BRAUN. Mr. President, I am pleased to join Senators MACK, KENNEDY, ABRAHAM, and GRAHAM in introducing the Haitian Refugee Immigration Fairness Act of 1997. I believe that this legislation will help mend a current shortcoming in the law.

During the early 1990's, our country flew in some 11,000 Haitians who fled the oppressive and dangerous conditions in their homeland during the overthrow of Haiti's democratically elected government. As you may know, this coup was marked by atrocious human rights abuses, including systematic use of rape and murder as weapons of terror. The International Civilian Mission, which has monitored human rights conditions throughout Haiti, documented this tragedy, including horrors so awful as to be almost imaginable.

To allow such human rights violations to occur so close to home, while doing nothing would have been inconsistent with the stated goals of our foreign policy. So in 1991, the United States took in persons fleeing Haiti at Guantanamo Bay, Cuba. After intense screening, many of these individuals were paroled into the United States to apply affirmatively for asylum. Between October, 1991 and May, 1992, over 30,000 Haitians were interviewed. Less than one-third of these individuals were paroled into the United States to seek asylum.

For the past 6 years, these individuals have had pending asylum cases with the Immigration and Naturalization Service. Now, despite the fact that these individuals have become a viable part of our Nation's communities, deportation of these Haitians has begun.

The individuals that I am talking about today are the children, wives, brothers, and sisters of soldiers and activists who stood up for democracy in Haiti and suffered a great deal because of the strength of their convictions. They fled to this country for refuge. They played by our rules. In the time that they've been here, they've built homes, paid taxes, and raised families in our country.

Two Presidential administrations have promised this class of people relief, and I believe that we have an obligation to make good on those promises. There is no excuse not to give them the relief similar to the relief that we have just recently granted to some 250,000 similarly situated Central American nationals.

I believe that in order to be equitable and fair, we must grant similar relief to this small group of individuals. This bill grants that relief. I urge my colleagues to join me in supporting this legislation, and look forward to working with everyone to see that this issue is equitably resolved.

By Mr. LOTT (for himself, Mr. DASCHLE, and Mr. WARNER):

S. 1508. A bill to authorize the Architect of the Capitol to construct a Capitol Visitor Center under the direction of the United States Preservation Commission, and for other purposes; to the Committee on Rules and Administration.

LEGISLATION AUTHORIZING THE CONSTRUCTION OF A CAPITOL VISITORS CENTER

Mr. WARNER. Mr. President, I rise as an original cosponsor of this legislation that will authorize the Architect of the Capitol to construct a Capitol Visitor Center under the direction of the U.S. Capitol Preservation Commission.

The construction of a Capitol Visitor Center is a matter that has been discussed and contemplated for many years. In fact, both the current and the preceding Architect of the Capitol have reviewed and supported the project. Over the years, I have personally been involved in numerous Rules Committee hearings and briefings on the subject.

In my view, the time has come for Congress to move ahead with this project. This legislation is an important step in that direction in that it directs the Capitol Preservation Commission to develop a detailed financial plan for constructing the project, largely with funds donated by the American people.

The Capitol is the second most visited building in the entire Washington, DC area, having nearly 35,000 visitors pass through its doors every day. For many visitors there are long lines and waits in hot sticky weather, or cold wet weather, as there is no place for visitors to gather in preparation for their tour through the Capitol.

The Capitol Visitor Center will have a tremendous, positive impact on the informational and educational experience afforded visitors to the Capitol. It will provide information regarding the history and role of Congress, along with additional information about the visitor's Representative and Senators

But for me, the most compelling need for the Capitol Visitor Center is to add a major element of enhanced security for the entire Capitol building and environs. During the recent Capitol security hearings held in the Senate Rules Committee, the security benefits that a Capitol Visitor Center will provide were outlined clearly by the Capitol Police Board. I strongly believe that the security benefits provided by a Capitol Visitor are not to be taken lightly.

I hope all Members will support this important legislation that will greatly enhance the experience visitors receive when visiting our Nations Capitol.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 1509. A bill to authorize the Bureau of Land Management to use vegetation sales contracts in managing land at Fort Stanton and certain nearby acquired land along the Rio Bonita in Lincoln County, New Mexico, to the Committee on Energy and Natural Resources.

THE FORT STANTON AND RIO BONITO CORRIDOR VEGETATION MANAGEMENT ACT

Mr. DOMENICI. Mr. President, I rise to introduce a bill to authorize the Bureau of Land Management to generate funds for the management of Fort Stanton and the Rio Bonito Corridor in Lincoln County, NM. These funds will be raised by authorizing the use of vegetation sales contracts, which will allow the use of forage for livestock grazing.

The Fort Stanton and Rio Bonito Corridor Vegetation Management Act will provide livestock producers with opportunities for additional grazing in the Fort Stanton area, while providing the Bureau of Land Management [BLM] the flexibility to manage the lands in this area according to the recently approved Roswell Area Resource Management Plan.

Mr. President, as background, land in the Fort Stanton area has been acquired by the BLM through purchase, exchange, and transfer from the State of New Mexico. Fort Stanton itself came under the jurisdiction of the BLM by transfer from the U.S. General Services Administration in 1956. Certain tracts along the Rio Bonito in the Fort Stanton area came to the BLM by exchange in 1995. These lands are highly valued for their unique cultural, historic, and natural resources.

General, livestock grazing is managed by the BLM according to a number of laws, including the Taylor Grazing Act, and the regulations that implement those laws. Currently, the Fort Stanton area lands are not within an established grazing district, and are not administered under the Taylor Grazing Act. To continue maintaining and improving the resources of these lands, and to fulfill the management objectives established through the Federal Land Policy and Management Act [FLPMA] planning process, the BLM needs additional management flexibility. The management of vegetation under this additional flexibility will allow for improvement of watershed conditions and wildlife habitat, and will allow for the development of additional recreational opportunities on these public lands, all of which provide benefits for the people and economy of Lincoln County, NM.

The use of livestock grazing in this area has been employed successfully by the BLM in the past. Rangeland improvements and vegetation treatments will emphasize the needs of wildlife and improve watershed management as intended under the current management plan. The use of vegetation sales contracts authorized by this legislation will allow the BLM to use livestock grazing without establishing grazing preferences on these lands.

Finally, Mr. President, the proceeds from vegetation sales contracts will provide additional money for the BLM to use in the management of Fort Stanton and the Rio Bonito Corridor. When offered by the BLM, these contracts will be sold to the highest bidder, who will then be permitted to graze livestock in this area under specific terms and conditions. Some will wonder how the Senator from New Mexico, who has consistently opposed the policy of competitive bidding for grazing permits on public lands, could offer such a proposal. Quite simply, Mr. President, the BLM's management plan for this area provides the rancher bidding on these contracts with facilities and a number of services at Fort Stanton, that it simply cannot provide on the vast majority of the 270 million acres it is charged with managing. This area will be similar to the furnished apartment—where facilities and services are provided by the BLM as a part of the contract—which my colleagues have heard used as a comparison on the Senate floor in the past. Grazing permits offered on other public domain lands remain the unfurnished apartment—where the BLM provides no facilities or services to grazing permittees.

At Fort Stanton, the BLM will be responsible for maintaining and operating the watering facilities, and will not require the lessee to construct improvements and pay for them out of his own pocket. Additionally, the BLM already owns all of the livestock handling facilities at Fort Stanton, and the lessee will be allowed to use them as a part of the contract. Under this legislation, part of the proceeds from the sale of these contracts will be available for BLM to provide improvements to existing facilities, and a greater level of onsight management than is available on other public lands. An additional difference is that this public land has not been an integral part of an established ranch for the past 60 years, at least not in the same

manager as public land ranches governed by the Taylor Grazing Act. This means that providing opportunities for competitive bidding in this area will not remove the heart of an existing family ranch that has been in operation for several generations.

Mr. President, I am hopeful that the Senate will be able to move this legislation through Congress rapidly next year, and I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1509

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Fort Stanton and Rio Bonito Corridor Vegetation Management Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the lands under the jurisdiction of the Secretary surrounding Fort Stanton, New Mexico, contain historic and natural resources that warrant special management considerations by the Bureau of Land Management;

(2) the adjudication process for establishing grazing preferences under the Act of June 28, 1934 (commonly known as the ''Taylor Grazing Act'') (43 U.S.C. 315 et seq.) and other applicable laws has not been conducted on lands acquired by the Secretary at and near Fort Stanton, New Mexico, including lands along the Rio Bonito in Lincoln County, New Mexico;

(3) in the management of renewable forage resources on lands surrounding Fort Stanton, New Mexico, vegetation sales contracts would be a beneficial tool for the Bureau of Land Management to use to maintain and enhance the condition of the forage and other natural resources of the area;

(4) the management of grazing animals under vegetation sales contracts requires fiscal resources and personnel that exceed that of the grazing preference system in place on other public domain lands; and

(5) disputes over the legal description of lands acquired by the Secretary along the Rio Bonito in Lincoln County, New Mexico, make it necessary for the Bureau of Land Management to pursue reasonable legal remedies under existing authorities to resolve such disputes with adjacent landowners.

SEC. 3. DEFINITIONS.

(1) FORT STANTON.—The term ''Fort Stanton'' means land under the administrative jurisdiction of the Secretary at Fort Stanton, New Mexico, as depicted on the map entitled ''Fort Stanton and Rio Bonito Corridor, NM'', dated May 13, 1997.

(2) RIO BONITO CORRIDOR.—The term ''Rio Bonito Corridor'' means land under the administrative jurisdiction of the Secretary near Fort Stanton, New Mexico, within the area identified as the ''Rio Bonito Corridor'', as depicted on the map entitled ''Fort Stanton and Rio Bonito Corridor, NM'', dated May 13, 1997, which—

(A) was acquired by the Secretary before May 13, 1997; or

(B) is acquired by the Secretary (by purchase or exchange) from willing landowners after May 13, 1997.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

SEC. 4. MAPS.

The maps referred to in section 3 shall be made available for public inspection by the Bureau of Land Management at the Roswell District Office in Roswell, New Mexico, and at the New Mexico State Office in Santa Fe, New Mexico.

SEC. 5. MANAGEMENT OF FORT STANTON AND RIO BONITO LAND.

(a) IN GENERAL.—Notwithstanding any provision of the Act of June 28, 1934 (43 U.S.C. 315 et seq.), or any other law relating to the establishment, leasing, or permitting of grazing under a grazing preference, the Secretary, in managing land within Fort Stanton and the Rio Benito Corridor that is under the jurisdiction of the Secretary, may solicit competitive bids for and enter into vegetation sales contracts for the purpose of using livestock grazing as a vegetation management tool. Any such contracts entered into with respect to the land before the date of enactment of this Act are ratified.

(b) CONSISTENCY WITH LAND AND RESOURCE MANAGEMENT PLANS.—Management of Fort Stanton and the Rio Benito Corridor shall be consistent with any applicable land and resource management plan under the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

(c) DISTRIBUTION AND USE OF PROCEEDS.—Of the proceeds of vegetation sales contracts entered into under subsection (a)—

(1) 12½ percent shall be paid to the State of New Mexico for distribution to Lincoln County, New Mexico, to be used for purposes authorized by section 10 of the Act of June 28, 1934 (43 U.S.C. 315i);

(2) 12½ percent shall be deposited in the general fund of the Treasury of the United States; and

(3) 75 percent shall be deposited in a special account in the Treasury of the United States and shall be available to the Secretary, without further Act of appropriation, for use in managing Fort Stanton and the Rio Benito Corridor and to achieve the management goals and prescriptions identified in applicable resource management plans for the Rio Benito acquired lands and the Fort Stanton area of critical environmental concern, but none of the proceeds provided to the Secretary under this paragraph shall be available for land acquisition.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 1510. A bill to direct the Secretary of the Interior and the Secretary of Agriculture to convey certain lands to the county of Rio Arriba, New Mexico; to the Committee on Energy and Natural Resources.

THE RIO ARRIBA, NEW MEXICO LAND CONVEYANCE ACT OF 1997

Mr. DOMENICI. Mr. President, today, I am introducing legislation that I believe will provide long-term benefits for the people of Rio Arriba County, New Mexico. This legislation will direct the Secretaries of the Interior and Agriculture to convey real property and improvements at an abandoned and surplus administrative site for the Carson National Forest to Rio Arriba County. The site is known as the old Coyote Ranger District Station, near the small town of Coyote, New Mexico.

This legislation is patterned after a similar transfer that the 103rd Congress directed the Secretary of Agriculture to complete on the old Taos Ranger District Station in 1993. As with the Taos station, the Coyote Station will continue to be used for public purposes, including a community center, and a fire substation. Some of the buildings will also be available for the County to use for storage and repair of road maintenance equipment, and other County vehicles.

Mr. President, the Forest Service has determined that this site is of no further use to them, since they have recently completed construction of a new administrative facility for the Coyote Ranger District. In an October 22 letter from the Regional Forester of the Southwest Region, I was informed that on August 7, the Forest Service reported to the General Services Administration that the improvements on the site were considered surplus, and would be available for disposal under their administrative procedures. At this particular site, however, the land on which the facilities have been built is withdrawn public domain land, under the jurisdiction of the Bureau of Land Management.

Because of the complicating factor of the land and the facilities being under the jurisdiction of two separate Departments of the Federal government, I believe that this directed conveyance to Rio Arriba County will provide for a more efficient and expedited transfer. Under administrative processes, not only will the Departments of the Interior and Agriculture have to go through their respective procedures, but there will likely be some involvement of the General Services Administration. This legislation simply directs the Secretaries of the Interior and Agriculture to negotiate the terms and conditions of the conveyance directly with officials from Rio Arriba County.

Mr. President, since neither the Bureau of Land Management nor the Forest Service have any interest in maintaining Federal ownership of this land and the surplus facilities, I believe that this should be a relatively straight-forward issue for Congress to address. I hope that we will be able to act on this legislation quickly next spring.

In closing, Mr. President, I want to thank the Senate for its consideration, and ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1510

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. OLD COYOTE ADMINISTRATIVE SITE.

(a) CONVEYANCE OF PROPERTY.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall convey by quit-claim deed to the county of Rio Arriba, New Mexico, subject to the terms and conditions stated in subsection (b), all right, title, and interest of the United States in and to the land (including all improvements on the land) known as the ''Old Coyote Administrative Site'' located approximately ½ mile east

of the Village of Coyote, New Mexico on State Road 96, comprising 1 tract of 130.27 acres and 1 tract of 276.76 acres.

(b) TERMS AND CONDITIONS.—

(1) CONSIDERATION.—The conveyance described in subsection (a) shall be in consideration of an amount that is agreeable to the Secretary of the Interior, the Secretary of Agriculture, and the county of Rio Arriba, New Mexico, payable in full within the 6-month period referred to in subsection (a), or, at the option of the county, in 20 annual payments due on January 1 of the first year beginning after the date of enactment of this Act and annually thereafter until the total amount due has been paid. The county shall not be charged interest on amounts owed the United States for the conveyance.

(2) RELEASE.—On conveyance of the property under subsection (a), the county shall release the United States from any liability for claims relating to the property.

(3) REVERSION.—The conveyance under subsection (a) shall be a conveyance fee simple title to the property, subject to reversion to the United States if the property is used for other than public purposes or if the consideration requirements under paragraph (1) are not met.

By Mr. LAUTENBERG (for himself, Mr. D'AMATO, Mr. MOYNIHAN, and Mr. TORRICELLI):

S. 1512. A bill to amend section 659 of title 18, United States Code; to the Committee on the Judiciary.

Mr. LAUTENBERG. Mr. President, I rise to introduce legislation with Senators D'AMATO, MOYNIHAN, and TORRICELLI that addresses the growing problem of cargo theft. This crime, which covers the interstate theft of cargo from ports, airports, rails, and roads, causes losses as high as $10 billion a year in the United States. The ''Cargo Theft Deterrence Act of 1997'' increases the incentive for prosecutors to pursue this crime and for defendants to cooperate with law enforcement. Furthermore, this legislation clarifies what is covered by existing law.

Cargo theft continues unabated as criminals discover that the risks of getting caught and prosecuted are far lower than for comparably lucrative crimes. This tends to be an under-reported crime that has received a relatively small amount of attention by Congress. I believe this must change. Mr. President, let me cite a few statistics that should demonstrate to my colleagues the seriousness of this crime and why we should act. In 1994, the dollar value in goods stolen from a single tractor-trailer rig in New Jersey was higher than all of the bank robberies combined in my state for that year.

While certain regions of the United States, such as New Jersey/New York, Southern California, and South Florida, sustain higher cargo theft losses than others, consumers nationwide are affected. For example, one industry group estimated that computers cost an average of $150 more because of cargo theft, and that approximately $3.5 billion of computers, chips, and software are stolen annually. The risk management director for one computer company said that ''it's a rare company that hasn't ever lost a truck.'' Most people do not realize that the value of computer chips per pound is higher than gold. And, unfortunately, the resale value of stolen items is much higher than what one might believe. Many of these goods end up overseas while others are sold in the same city.

Mr. President, virtually no product is safe from this crime. While theft of computers and computer products, fragrances, and designer clothes are not uncommon, items ranging from frozen seafood, pineapple pulp, cough drops, refried beans, and insulation have been reported stolen.

The industry maxim of ''cargo at rest is cargo at risk'' is no longer a truism—all cargo is a risk—and contrary to the belief that this is a victimless crime, an alarming number of tractor trailers have been hijacked. This occurred just several weeks ago in New Jersey, when a truck was hijacked right after leaving a port. Fortunately the driver was unharmed though one million dollars' worth of clothes were stolen. Tighter measures taken by port authorities and manufacturers at their plants have caused such hijackings to increase.

Mr. President, the need for this legislation is not a criticism of our law enforcement. The Port Authority of New York & New Jersey, for example, has made significant strides at curbing this crime in the New Jersey/New York region. Unfortunately, existing law does not provide an adequate deterrent because the penalties are not sufficiently severe nor is there an incentive for defendants to cooperate with prosecutors.

Let me explain, Mr. President, what my legislation will do. It will bring efforts to fight this crime into the next century. Enacted in its earliest form in 1913, the statute that my bill modifies covers such older modes of transportation and distribution of cargo as wagons, depots, and steamboats. My bill recognizes the advances we have made in intermodal connections and transportation by adding such terms as ''trailer,'' ''air cargo container,'' and ''freight consolidation facility.'' The days of cargo theft from wagons are gone. Furthermore, the Cargo Theft Deterrence Act broadens the statute's coverage to clarify that cargo is moving as an interstate or foreign shipment at all points between the point of origin and the final destination. Merely because a container is temporarily at rest awaiting transport to its final destination should not prevent law enforcement from prosecuting a defendant under this statute. Existing law currently covers cargo moving as a part of interstate or foreign commerce.

My legislation increases the penalties for convictions under this statute. Current law provides that those convicted of this provision shall be fined or imprisoned not more than one year, or both. My bill increases this maximum prison term to three. This statute, as currently written, requires the government to prove that not only did a defendant embezzle, steal, or unlawfully take the cargo, it must show that he did so with the intent to convert to his own use. This seems duplicative at best and is an unnecessary hurdle for the prosecutor to demonstrate. The Cargo Theft Deterrence Act eliminates the term, ''with intent to convert to his own use'' from this statute. Since we have removed this intent language, we have created the affirmative defense that the defendant bought, received, or possessed the cargo with the sole intent of reporting the matter to either law enforcement or the owner of the cargo.

The Sentencing Commission is directed to provide a sentencing enhancement of two levels for this crime similar to enhancements made for offenses involving organized schemes to steal vehicles or if the offense involved more than minimal planning. This Act also requires the Attorney General to report annually to Congress on the progress made by law enforcement investigating and prosecuting this crime. Additionally, upon motion by the Attorney General, a court may reduce the penalties if a defendant cooperates with law enforcement. Use of informants is essential in reducing this crime and this provision creates an appropriate incentive.

Finally, Mr. President, my legislation creates a Cargo Theft Advisory Committee that will study and make recommendations about the establishment of a national data base of information about this crime. A constant complaint by industry and law enforcement is that there is a lack of good data about cargo theft. Industry tends to under-report it and law enforcement frequently classifies it in such categories as theft, robbery, hijacking, and burglary. This Committee, which shall exist for one year and report its findings and recommendations to Congress and the President, will also review the desirability of creating a centralized office within the federal government to oversee efforts designed to curb cargo theft and to increase coordination with the private sector, and state and local law enforcement.

Mr. President, I thought an advisory committee was the most prudent course because legitimate questions have been raised about whether this data base should be maintained by the public or private sector, who should be able to access it, and what information should be collected, yet remain confidential. Moreover, there are several logical agencies that could house an office on cargo security so I thought it is appropriate to have cargo security experts in both the public and private sector make this recommendation.

Mr. President, I look forward to the Judiciary Committee's consideration of this legislation and urge my colleagues to support this first step in addressing this crime that affects all Americans. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1512

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Cargo Theft Deterrence Act of 1997''.

SEC. 2. INTERSTATE OR FOREIGN SHIPMENTS BY CARRIER.

(a) IN GENERAL.—Section 659 of title 18, United States Code, is amended—

(1) by striking ''with intent to convert to his own use'' each place that term appears;

(2) in the first undesignated paragraph—

(A) by inserting ''trailer,'' after ''motortruck,'';

(B) by inserting ''air cargo container,'' after ''aircraft,''; and

(C) by inserting '', or from any intermodal container, trailer, container freight station, warehouse, or freight consolidation facility,'' after ''air navigation facility'';

(3) in the fifth undesignated paragraph—

(A) by striking ''one year'' and inserting ''3 years''; and

(B) by adding at the end the following: ''Notwithstanding the preceding sentence, the court may, upon motion of the Attorney General, reduce any penalty imposed under this paragraph with respect to any defendant who provides information leading to the arrest and conviction of any dealer or wholesaler of stolen goods or chattels moving as or which are a part of or which constitute an interstate or foreign shipment.'';

(4) in the penultimate undesignated paragraph, by inserting after the first sentence the following: ''For purposes of this section, goods and chattel shall be construed to be moving as an interstate or foreign shipment at all points between the point of origin and the final destination (as evidence by the waybill or other shipping document of the shipment), regardless of any temporary stop while awaiting transshipment or otherwise.''; and

(5) by adding at the end the following:

''It shall be an affirmative defense (on which the defendant bears the burden of persuasion by a preponderance of the evidence) to an offense under this section that the defendant bought, received, or possessed the goods, chattels, money, or baggage at issue with the sole intent to report the matter to an appropriate law enforcement officer or to the owner of the goods, chattels, money, or baggage.''.

(b) FEDERAL SENTENCING GUIDELINES.—Pursuant to section 994 of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to provide a sentencing enhancement of not less than 2 levels for any offense under section 659 of title 18, United States Code, as amended by this section.

(c) REPORT TO CONGRESS.—The Attorney General shall annually submit to Congress a report, which shall include an evaluation of law enforcement activities relating to the investigation and prosecution of offenses under section 659 of title 18, United States Code, as amended by this section.

SEC. 3. ADVISORY COMMITTEE ON CARGO THEFT.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established a Committee to be known as the Advisory Committee on Cargo Theft (in this section referred to as the ''Committee'').

(2) MEMBERSHIP.—

(A) COMPOSITION.—The Committee shall be composed of 6 members, who shall be appointed by the President, of whom—

(i) 1 shall be an officer or employee of the Department of Justice;

(ii) 1 shall be an officer or employee of the Department of Transportation;

(iii) 1 shall be an officer or employee of the Department of the Treasury; and

(iv) 3 shall be individuals from the private sector who are experts in cargo security.

(B) DATE.—The appointments of the initial members of the Committee shall be made not later than 3 days after the date of enactment of this Act.

(3) PERIOD OF APPOINTMENT; VACANCIES.—Each member of the Committee shall be appointed for the life of the Committee. Any vacancy in the Committee shall not affect its powers, but shall be filled in the same manner as the original appointment.

(4) INITIAL MEETING.—Not later than 15 days after the date on which all initial members of the Committee have been appointed, the Committee shall hold its first meeting.

(5) MEETINGS.—The Committee shall meet, not less frequently than quarterly, at the call of the Chairperson.

(6) QUORUM.—A majority of the members of the Committee shall constitute a quorum, but a lesser number of members may hold hearings.

(7) CHAIRPERSON.—The President shall select 1 member of the Committee to serve as the Chairperson of the Committee.

(b) DUTIES.—

(1) STUDY.—The Committee shall conduct a thorough study of, and develop recommendations with respect to, all matters relating to—

(A) the establishment of a national computer database for the collection and dissemination of information relating to violations of section 659 of title 18, United States Code (as added by this Act); and

(B) the establishment of an office within the Federal Government to promote cargo security and to increase coordination between the Federal Government and the private sector with respect to cargo security.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Committee shall submit to the President and to Congress a report, which shall contain a detailed statement of results of the study and the recommendations of the Committee under paragraph (1).

(c) POWERS.—

(1) HEARINGS.—The Committee may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Committee considers advisable to carry out the purposes of this section.

(2) INFORMATION FROM FEDERAL AGENCIES.—The Committee may secure directly from any Federal department or agency such information as the Committee considers necessary to carry out the provisions of this section. Upon request of the Chairperson of the Committee, the head of such department or agency shall furnish such information to the Committee.

(3) POSTAL SERVICES.—The Committee may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(4) GIFTS.—The Committee may accept, use, and dispose of gifts or donations of services or property.

(d) PERSONNEL MATTERS.—

(1) COMPENSATION OF MEMBERS.—

(A) NON-FEDERAL MEMBERS.—Each member of the Committee who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Committee.

(B) FEDERAL MEMBERS.—Each member of the Committee who is an officer or employee of the United States shall serve without compensation in addition to that received for their service as an officer or employee of the United States.

(2) TRAVEL EXPENSES.—The members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Committee.

(3) STAFF.—

(A) IN GENERAL.—The Chairperson of the Committee may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Committee to perform its duties. The employment of an executive director shall be subject to confirmation by the Committee.

(B) COMPENSATION.—The Chairperson of the Committee may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(4) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Committee without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(5) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Committee may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(e) TERMINATION.—The Committee shall terminate 90 days after the date on which the Committee submits the report under subsection (b)(2).

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to the Committee to carry out the purposes of this section.

(2) AVAILABILITY.—Any sums appropriated under the authorization contained in this section shall remain available, without fiscal year limitation, until expended.

ADDITIONAL COSPONSORS

S. 10

At the request of Mr. SMITH, his name was withdrawn as a cosponsor of S. 10, a bill to reduce violent juvenile crime, promote accountability by juvenile criminals, punish and deter violent gang crime, and for other purposes.

S. 173

At the request of Mr. DEWINE, the name of the Senator from Nebraska [Mr. HAGEL] was added as a cosponsor of S. 173, a bill to expedite State reviews of criminal records of applicants for private security officer employment, and for other purposes.

S. 632

At the request of Mr. KOHL, the name of the Senator from New Mexico [Mr.